

Agenda**Environmental Protection
Commission**

May 20, 1996

10:00 AM

Wallace State Office Building, Fourth Floor Conference Room

Public Participation

10:30 A.M.

APPOINTMENTS:Liz Gilbert (Item #20) Gilbert- Petition for Rulemaking
Postville Pork (Item #22a)

1:00 p.m.

1:30 P.M.

Aaron Hawbaker (Item #21) Thiry-Petition for Declaratory Ruling

2:00p.m.

Pete Burk (Item #21) " " " " "

Agenda topics

- | | |
|--|----------------------------------|
| 1. Approve Agenda | |
| 2. Election of Officers for 1996-97 | |
| 3. Approve Minutes of April 15, 1996 | |
| 4. Director's Report | Larry Wilson (Information) |
| 5. Monthly Financial Status Report | Stan Kuhn (Information) |
| 6. By-Products and Waste Search Service (BAWSS) Contract | Teresa Hay (Decision) |
| 7. Construction and Demolition Debris Recycling Contract | Teresa Hay (Decision) |
| 8. Monthly Reports | Allan Stokes (Information) |
| 9. Nonpoint Source Pollution Control Project Contract, BMP Promotion in Northeast Iowa | Allan Stokes (Decision) |
| 10. SFY 97 Water Supply Fee | Allan Stokes (Information) |
| 11. Proposed Rule--Chapter 65, 68, and 121, Navigable Waters and Manure Application | Allan Stokes (Information) |
| 12. Proposed Rule--Chapter 53, Protected Water Sources | Allan Stokes (Information) |
| 13. Final Rule--Chapter 65, Manure Management Plans for Expanded Animal Feeding Operations | Allan Stokes (Decision) |

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| 14. | Final Rule--Chapter 61, Water Quality Standards Stream Use Designations | Allan Stokes (Decision) |
| 15. | Title V Air Quality Operating Permit Fee | Allan Stokes (Decision) |
| 16. | Final Rule--Chapter 22, Deferral of Title V Fee Payment for Deferred Stationary Sources | Allan Stokes (Decision) |
| 17. | State Implementation Plan Amendment for Muscatine Nonattainment Area | Allan Stokes (Decision) |
| 18. | Notice of Intended Action-- ^{chapter 23,} Open Burning | Allan Stokes (Decision) |
| 19. | Notice of Intended Action--Chapter 103, Sanitary Landfills | Allan Stokes (Decision) |
| 20. | Petition for Rulemaking -- Liz Gilbert | Allan Stokes (Decision) |
| 21. | Petition for Declaratory Ruling -- Kenneth and Regina Thierry | Allan Stokes (Decision) |
| 22. | Referrals to the Attorney General | Allan Stokes (Decision) |
| | a) Postville Pork (Allamakee County) -- (Tabled) | |
| | b) Weiland & Sons Lumber Co. (Winthrop) | |
| | c) Randy Ballard (Fayette County) | |
| 23. | Legislation Update | Don Paulin (Information) |
| 24. | General Discussion | |
| 25. | Address Items for Next Meeting | |

Next Meeting Dates	June 17, 1996
	July 15, 1996
	August 19, 1996

ENVIRONMENTAL PROTECTION COMMISSION

Monday, May 20, 1996

NAME	COMPANY OR AGENCY	CITY
(PLEASE PRINT)		
Rebecca Cole	3723 Queens Jewell	Jewell
Jim Heckman	JA Institute For Coops	JA Ames
Tom SHERR	BROWN ENGINEERING Co.	WEST DSM
Chris Hess	U.S. EPA	KC, KS
Jack Soemer	ABI	D.M.
Patrick Lulley	Lee Newspapers	DM
Helen Mahler	Suna Club	DM
Pat Eddy	Prairie Fire	DSM
STEVE FINEGAN	Black Hawk Co.	Cedar Falls
Soren JOHANSEN	Black Hawk Co.	Waterloo
Richard L King	Black Hawk Co.	Waterloo
Bill Claassen	Claassen Engineering	Waterloo
Pete Busk	B.H.CO	Waterloo
PATRICK A. BOE	SWINE TEK / POSTVILLE PORK	POSTVILLE
AARON HAWBAKER	KANDALL, Nelson & Hawbaker	W/oo

ENVIRONMENTAL PROTECTION COMMISSION

Monday, May 20, 1996

NAME

COMPANY OR AGENCY

CITY

(PLEASE PRINT)

Justin Hirschman	La Cizini/Hide Ombudsmen	Des Moines
Grozeba Hudson	IDED	DSM
Amy Christensen	Sullivan + Ward	Des Moines
Perry Beeson	DM Register	DM
Jane McAllister	Anlers Law Firm	DSM
Rear Hill	Anlers Law Firm	DSM
John Eichelberger	Muscating Power Water Hintermeister, Knoernschild Eichelberger	MUSCATING MUSCATING
Jack Clark	Iowa Utility Assoc.	Des Moines
DAN LEST	GROWMARK, INC.	BLOOMINGTON, IL.
Regina Thiry		Waterloo IA
Pat Rottinghaus		Waterloo
Michael Rottinghaus		Waterloo
Julie Rottinghaus		Waterloo
JERRY FLEBLE		WATERLOO
Liz Gilbert		Iowa Falls

RECORD COPY EPC
File Name ADM-1-1-1 Meeting
Senders Initials Off May 1996

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

MAY 20, 1996

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

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MEETING MINUTES**CALL TO ORDER**

The meeting of the Environmental Protection Commission was called to order by Chairperson King at 10:00 a.m. on Monday, May 20, 1996, in the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

Verlon Britt
William Ehm
Rozanne King, Chair
Charlotte Mohr, Secretary
Gary Priebe, Vice-Chair
Terrance Townsend

MEMBERS ABSENT

Kathryn Draeger
Kathryn Murphy

Director Wilson stated that Commissioner Draeger and Commissioner Murphy both phoned to say they will not attend today's meeting due to a conflict.

ADOPTION OF AGENDA

The following adjustments were made to the agenda:

- Add: Appointment - Liz Gilbert, Petition for Declaratory Ruling 1:00 p.m.
- Add: Appointment - Aaron Hawbaker, Thiry Petition " " 2:00 p.m.
- Add: Appointment - Pete Burk, Thiry Petition " " " 2:00 p.m.

Motion was made by Charlotte Mohr to approve the agenda as amended. Seconded by Terrance Townsend. Motion carried unanimously.

APPROVED AS AMENDED

ELECTION OF OFFICERS FOR 1996-97

Chairperson King called for nominations for the position of Chair.

William Ehm nominated Rozanne King for Chair. Seconded by Verlon Britt. Charlotte Mohr moved to cease nominations and the secretary cast a unanimous ballot for Rozanne King. Seconded by Gary Priebe. Motion carried unanimously.

ROZANNE KING ELECTED CHAIR

Chairperson King opened nominations for Vice-Chair.

Charlotte Mohr nominated Gary Priebe for Vice-Chair. Seconded by Verlon Britt. William Ehm moved to cease nominations and the secretary cast a unanimous ballot for Gary Priebe. Seconded by Terrance Townsend. Motion carried unanimously

GARY PRIEBE ELECTED VICE-CHAIR

Chairperson King called for nominations for Secretary.

Gary Priebe nominated Charlotte Mohr for Secretary. Seconded by Terrance Townsend. Verlon Britt moved to cease nominations and the secretary cast a unanimous ballot for Charlotte Mohr. Seconded by Terrance Townsend. Motion carried unanimously.

CHARLOTTE MOHR ELECTED SECRETARY

APPROVAL OF MINUTES

Motion was made by Terrance Townsend to approve the meeting minutes of April 15, 1996, as presented. Seconded by Verlon Britt. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTOR'S REPORT

Larry Wilson, Director, reported that the Waste Management Tire Fund bill was signed by the Governor. The Director assigned that program to Teresa Hay. He noted that he is preparing job descriptions for the people who have been approved for the Permit Assistance Program, which was also passed by the legislature.

Director Wilson distributed copies of the Ombudsman's Report for 1995 noting that it contains an article on Kristi Hirschman and her role as the Small Business Ombudsman.

FINANCIAL STATUS REPORT - YTD DIVISION EXPENDITURES

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Accompanying this item is the YTD April 30, 1996 division-level expenditure status report.

Staff will be present and will respond to questions regarding related fiscal matters.

There is no significant status change compared to schedules and information presented at recent, previous meetings.

DIRECTOR'S OFFICE/I&E BUREAU

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 4/30/96	YTD Actual 4/30/96	Under (Over)
PERS SERV	1,004,589	1,038,827	841,450	766,749	74,701
PERS TRV IN	41,546	54,282	40,712	23,424	17,288
STATE VEHICL	4,535	7,431	6,190	3,219	2,971
DEPRECIATION	7,860	12,640	10,529	6,830	3,699
PERS TRV OUT	10,438	9,500	7,125	7,850	(725)
OFF SUPPLY	71,747	76,600	57,450	49,743	7,707
FAC MAINT SU	34	31,000	23,250	2,035	21,215
EQUIP MAINT	4,166	6,850	5,138	1,877	3,261
OTHER SUPPLY	63,923	58,400	43,800	62,128	(18,328)
PRINT & BIND	259,174	325,944	244,458	140,747	103,711
UNIFORMS	1,951	2,150	1,613	572	1,041
COMMUNICATIO	28,986	25,800	19,350	18,169	1,181
RENTALS	2,193	2,000	1,500	2,424	(924)
UTILITIES	187	750	563	170	393
PROF SERV	53,169	80,070	60,053	21,886	38,167
OUTSIDE SERV	31,516	26,550	19,913	30,043	(10,131)
ADVER PUB	0	5,000	3,750	0	3,750
DATA PROC	7,275	14,050	10,538	3,427	7,111
REIMBURSEMENT	3,896	6,175	4,631	356	4,275
EQUIPMENT	22,464	29,724	27,346	13,805	13,541
OTHER EXP	124	2,600	1,950	4	1,946
	1,619,773	1,816,343	1,431,306	1,155,458	275,848

Note: The budget overages in Other Supplies and Outside Services are within the Aquatic Education cost center and Publications cost center, respectively.

ADMINISTRATIVE SERVICES DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 4/30/96	YTD Actual 4/30/96	Under (Over)
PERS SERV	3,727,699	3,729,059	3,020,538	2,880,786	139,752
PERS TRV IN	32,873	42,850	32,138	38,647	(6,510)
STATE VEHICL	47,570	55,000	45,815	48,782	(2,967)
DEPRECIATION	68,730	75,500	62,892	57,810	5,082
PERS TRV OUT	7,148	8,500	6,375	6,519	(144)
OFF SUPPLY	339,910	355,500	266,625	288,164	(21,539)
FAC MAINT SU	2,020	16,000	12,000	1,002	10,998
EQUIP MAINT	46,662	53,000	39,750	31,892	7,858
OTHER SUPPLY	18,066	14,000	10,500	7,095	3,405
PRINT & BIND	25,145	23,000	17,250	14,925	2,325
UNIFORMS	6,031	2,500	1,875	784	1,091
COMMUNICATIO	101,812	108,100	81,075	79,476	1,599
RENTALS	184	500	375	800	(425)
UTILITIES	282	0	0	0	0
PROF SERV	52,024	70,000	52,500	34,369	18,131
OUTSIDE SERV	34,280	79,650	59,738	55,761	3,977
ADVER PUB	934	500	375	528	(153)
DATA PROC	44,611	91,000	68,250	67,267	983
AUDITOR REIM	169,503	175,000	131,250	71,937	59,313
REIMBURSEMENT	182,696	118,650	88,988	85,350	3,638
EQUIPMENT	199,462	169,500	155,940	187,868	(31,928)
OTHER EXP	8,484	8,658	6,494	0	6,494
LICENSES	0	50	38	0	38
	5,116,126	5,196,517	4,160,778	3,959,762	201,016

Note: Personal Travel is over due primarily to Construction Service field activity and moving expenses related to an employee transfer. Office Supplies is over due to time lag in distributing postage costs (about \$22,000) to other programs, and considerably higher paper costs as compared

to FY95. Equipment is over due to decisions made to use surplus in other categories to provide additional computer equipment, primarily laptops for acquisition negotiators.

PARKS, PRESERVES AND RECREATION DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 4/30/96	YTD Actual 4/30/96	Under (Over)
PERS SERV	5,004,243	4,555,104	3,689,634	3,595,740	93,894
SEASONAL HELP	1,509,834	1,298,094	856,742	847,307	9,435
PERS TRV IN	72,955	58,550	43,913	53,402	(9,490)
STATE VEHICL	213,209	200,460	166,983	164,693	2,290
DEPRECIATION	292,147	304,150	253,357	206,281	47,076
PERS TRV OUT	4,357	7,585	5,689	4,130	1,559
OFF SUPPLY	55,853	37,200	27,900	33,795	(5,895)
FAC MAINT SU	517,700	570,409	353,654	416,959	(63,305)
EQUIP MAINT	363,110	312,298	193,625	286,161	(92,536)
AG CONS SUPP	55,354	34,035	21,102	19,784	1,318
OTHER SUPPLY	37,550	43,600	32,700	32,938	(238)
PRINT & BIND	28,417	28,000	21,000	13,697	7,303
UNIFORMS	37,322	34,077	25,558	32,426	(6,868)
COMMUNICATIO	97,981	105,250	78,938	73,055	5,883
RENTALS	42,930	38,050	23,591	28,439	(4,848)
UTILITIES	440,884	423,200	262,384	356,821	(94,437)
PROF SERV	52,839	105,165	78,874	22,707	56,167
OUTSIDE SERV	219,918	203,852	126,388	154,230	(27,842)
ADVER PUB	2,904	1,050	788	858	(71)
DATA PROC	2,846	5,000	3,750	1,333	2,417
REIMBURSEMENT	8,012	7,375	5,531	4,787	744
EQUIPMENT	239,227	216,100	198,812	214,078	(15,266)
OTHER EXP	52	2,700	2,025	439	1,586
LICENSES	204	697	523	1,145	(622)
	9,299,848	8,592,001	6,473,458	6,565,205	(91,747)

Note: The net overage is down about \$30,000 from last month's estimate. Camping receipts are running about \$130,000 ahead of budgeted levels. Thus, the division should complete the fiscal year under budget.

FORESTS AND FORESTRY DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 4/30/96	YTD Actual 4/30/96	Under (Over)
PERS SERV	1,801,319	1,804,191	1,461,395	1,438,746	22,649
SEASONAL HELP	81,704	122,976	81,164	62,888	18,276
PERS TRV IN	40,119	42,800	32,100	33,228	(1,128)
STATE VEHICL	66,145	86,500	72,055	58,549	13,506
DEPRECIATION	133,805	138,500	115,371	98,925	16,446
PERS TRV OUT	8,189	8,800	6,600	3,850	2,750
OFF SUPPLY	27,792	25,870	19,403	18,104	1,299
FAC MAINT SU	49,992	33,500	25,125	35,031	(9,906)
EQUIP MAINT	57,760	49,000	36,750	45,348	(8,598)
AG CONS SUPP	125,118	113,000	84,750	51,482	33,268
OTHER SUPPLY	12,826	19,900	14,925	9,591	5,334
PRINT & BIND	3,419	26,200	19,650	13,116	6,534
UNIFORMS	13,640	14,300	10,725	2,477	8,248
COMMUNICATIO	39,189	39,669	29,752	37,445	(7,693)
RENTALS	39,257	38,000	28,500	22,476	6,024
UTILITIES	30,741	36,800	27,600	24,611	2,989
PROF SERV	19,546	8,820	6,615	8,840	(2,225)
OUTSIDE SERV	57,912	60,820	45,615	51,635	(6,020)
ADVER PUB	176	2,000	1,500	159	1,341
DATA PROC	666	2,000	1,500	778	722
REIMBURSEMENT	2,580	550	413	603	(191)
EQUIPMENT	140,782	71,861	66,112	36,796	29,316
OTHER EXP	0	0	0	11	(11)
	2,752,677	2,746,057	2,187,618	2,054,689	132,940

Note: Forestry has deferred discretionary expenditures to avoid a year-end shortfall. Nursery stock sales are estimated to be about \$125,000 under budgeted levels, and the apparent surplus (above) is needed to compensate.

ENERGY & GEOLOGICAL RESOURCES DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 4/30/96	YTD Actual 4/30/96	Under (Over)
PERS SERV	2,340,475	2,445,164	1,980,583	1,854,087	126,496
PERS TRV IN	18,491	51,756	38,817	14,021	24,796
STATE VEHICL	10,970	14,000	11,662	9,080	2,582
DEPRECIATION	18,515	20,000	16,660	9,875	6,785
PERS TRV OUT	47,982	68,787	51,590	31,033	20,557
OFF SUPPLY	29,069	36,105	27,079	23,039	4,040
FAC MAINT SU	428	2,200	1,650	195	1,455
EQUIP MAINT	2,810	6,550	4,913	1,188	3,725
PROF SUPPLY	1,048	3,280	2,460	1,465	995
OTHER SUPPLY	29,162	61,561	46,171	20,026	26,145
PRINT & BIND	33,907	48,300	36,225	27,260	8,965
UNIFORMS	402	1,000	750	237	513
COMMUNICATIO	39,280	46,428	34,821	26,323	8,498
RENTALS	2,764	3,100	2,325	1,621	704
UTILITIES	18,227	16,400	12,300	13,391	(1,091)
PROF SERV	955,814	1,955,824	1,466,868	530,067	936,801
OUTSIDE SERV	57,518	134,270	100,703	53,700	47,003
ADVER PUB	624	1,000	750	792	(42)
DATA PROC	4,492	19,530	14,648	3,768	10,880
REIMBURSEMENT	8,164	6,635	4,976	3,226	1,750
EQUIPMENT	136,163	158,381	145,711	101,597	44,114
OTHER EXP	5,408	4,742	3,557	0	3,557
	3,761,713	5,105,013	4,005,216	2,725,991	1,279,225

Note: The apparent budget surplus relates to underspending in several federal and grant programs as explained in detail at the March EPC meeting.

ENVIRONMENTAL PROTECTION DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 4/30/96	YTD Actual 4/30/96	Under (Over)
PERS SERV	8,177,148	9,556,812	7,741,018	6,936,888	804,130
PERS TRV IN	55,513	130,807	98,105	40,221	57,884
STATE VEHICL	42,519	52,500	43,733	33,522	10,211
DEPRECIATION	56,720	76,500	63,725	47,170	16,555
PERS TRV OUT	72,774	193,332	144,999	71,339	73,660
OFF SUPPLY	98,251	127,557	95,668	90,733	4,935
FAC MAINT SU	3,133	4,300	3,225	3,398	(173)
EQUIP MAINT	16,909	19,750	14,813	9,165	5,648
PROF SUPPLY	0	1,250	938	0	938
OTHER SUPPLY	22,997	46,567	34,925	9,845	25,080
PRINT & BIND	74,754	109,600	82,200	55,044	27,156
UNIFORMS	4,773	7,600	5,700	4,345	1,355
COMMUNICATIO	177,611	177,850	133,388	130,635	2,753
RENTALS	87,694	119,500	89,625	87,937	1,688
UTILITIES	18,207	24,811	18,608	18,392	216
PROF SERV	2,667,560	6,716,468	5,037,351	2,393,281	2,644,070
OUTSIDE SERV	87,877	91,446	68,585	47,992	20,593
ADVER PUB	6,314	12,900	9,675	6,193	3,482
DATA PROC	189,747	217,106	162,830	115,246	47,584
REIMBURSEMENT	62,713	67,600	50,700	27,419	23,281
EQUIPMENT	956,082	1,746,333	1,606,626	771,278	835,348
OTHER EXP	15,213	12,720	9,540	0	9,540
	12,894,509	19,513,309	15,515,974	10,900,043	4,615,931

Note: The apparent surplus relates primarily to underspending (as compared to budget) in the Air programs and the federal 319 non-point source pollution programs as explained at the March EPC meeting.

FISH AND WILDLIFE DIVISION

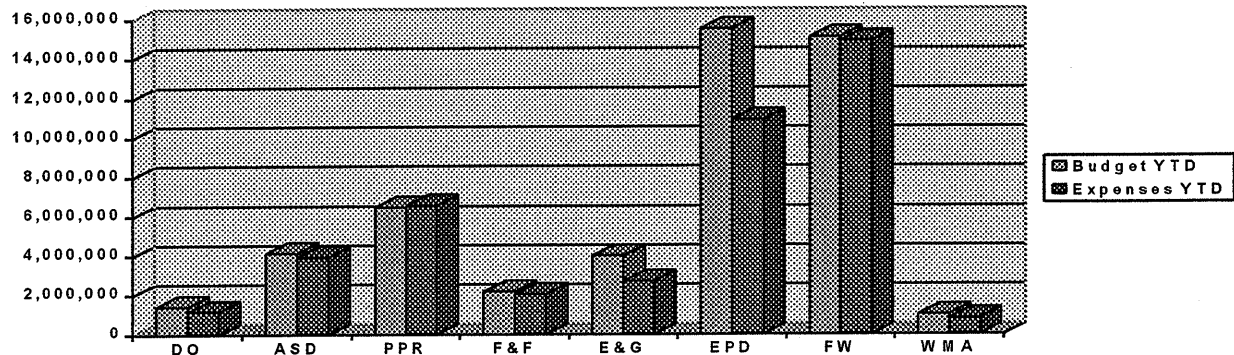
EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 4/30/96	YTD Actual 4/30/96	Under (Over)
PERS SERV	12,485,277	12,227,973	9,904,658	9,887,554	17,104
SEASONAL HELP	785,126	802,414	529,593	568,867	(39,274)
PERS TRV IN	371,415	355,522	266,642	262,229	4,413
STATE VEHICL	540,298	506,700	422,081	425,397	(3,316)
DEPRECIATION	680,640	753,316	627,512	583,860	43,652
PERS TRV OUT	33,831	48,400	36,300	31,684	4,616
OFF SUPPLY	276,247	303,868	227,901	221,680	6,221
FAC MAINT SU	377,293	458,687	344,015	250,859	93,156
EQUIP MAINT	451,909	350,636	262,977	365,008	(102,031)
PROF SUPPLY	0	10,000	7,500	0	7,500
AG CONS SUPP	340,020	366,258	274,694	253,738	20,956
OTHER SUPPLY	171,384	103,577	77,683	140,231	(62,548)
PRINT & BIND	218,479	283,625	212,719	290,042	(77,323)
UNIFORMS	161,845	132,575	99,431	62,921	36,510
COMMUNICATIO	293,531	204,100	153,075	225,604	(72,529)
RENTALS	57,169	65,035	48,776	41,776	7,000
UTILITIES	206,398	242,216	181,662	177,583	4,079
PROF SERV	343,892	392,780	294,585	267,902	26,683
OUTSIDE SERV	185,806	170,362	127,772	94,242	33,530
ADVER PUB	1,883	2,600	1,950	3,350	(1,400)
DATA PROC	74,037	64,000	48,000	75,868	(27,868)
REIMBURSEMENT	72,133	68,450	51,338	37,191	14,147
EQUIPMENT	1,219,428	951,034	874,951	639,792	235,159
OTHER EXP	44,003	34,353	25,765	3,137	22,628
LICENSES	1,053	300	225	0	225
	19,393,097	18,898,781	15,101,804	14,910,515	191,289

Note: Overages in several categories are being compensated for by delaying some equipment purchases to next fiscal year.

WASTE MANAGEMENT ASSISTANCE DIVISION

EXPENSE CATEGORY	Actual FY95	Budget FY96	YTD Budget 4/30/96	YTD Actual 4/30/96	Under (Over)
PERS SERV	766,664	782,200	633,582	618,986	14,596
PERS TRV IN	29,522	47,214	35,411	21,651	13,760
PERS TRV OUT	23,060	39,165	29,374	16,828	12,546
OFF SUPPLY	9,635	32,030	24,023	6,360	17,663
EQUIP MAINT	634	1,900	1,425	904	521
OTHER SUPPLY	24,011	45,445	34,084	29,426	4,658
PRINT & BIND	30,863	61,258	45,944	39,121	6,823
UNIFORMS	0	0	0	28	(28)
COMMUNICATIO	14,932	16,000	12,000	9,922	2,078
RENTALS	691	800	600	551	49
PROF SERV	75,578	123,897	92,923	21,085	71,838
OUTSIDE SERV	7,480	9,886	7,415	6,273	1,142
ADVER PUB	613	13,500	10,125	4,991	5,134
DATA PROC	4,157	4,750	3,563	1,698	1,865
REIMBURSEMENT	25,209	15,110	11,333	13,596	(2,264)
EQUIPMENT	14,702	63,400	58,328	34,386	23,942
OTHER EXP	5,796	6,650	6,118	0	6,118
	1,033,547	1,263,205	1,006,244	825,806	180,438

DNR Division Expenditure Status Versus Budget, 4/30/96



Mr. Kuhn updated the Commission as to the status of division expenditures.

Discussion followed regarding tree sales and the possibility of a big weekend for Parks on Memorial Day weekend.

INFORMATIONAL ONLY

BY-PRODUCT AND WASTE SEARCH SERVICE (BAWSS) CONTRACT

Teresa Hay, Division Administrator, Waste Management Assistance Division, presented the following item.

The By-product and Waste Search Service program is funded with a portion of the solid waste tonnage fees as established in Iowa Code 455E.311. This program facilitates waste exchanges from generator industries to other industries or recyclers that can use the waste material as a raw material. The By-product and Waste Service has diverted 52,361.19 tons this year, saving Iowa business and industry \$1,464,393 in avoided costs. This represents a diversion rate of \$15/ton. Iowa landfill tonnage rates average \$30/ton.

As provided by Code, the Department contracts for program management with the Iowa Waste Reduction Center, located at the University of Northern Iowa. The attached \$50,000 contract with the Iowa Waste Reduction Center is a two year contract beginning with Fiscal Year 1997 and ending with the close of Fiscal Year 1998.

At this time, the Commission is requested to approve the contract for management services with the Iowa Waste Reduction Center.

(A copy of the Scope of Work is on file in the department's Records Center)

Ms. Hay presented details of the contract.

Motion was made by William Ehm to approve the By-Products and Waste Search Service contract with the Iowa Waste Reduction Center at a cost of \$50,000. Seconded by Charlotte Mohr. Motion carried unanimously.

APPROVED AS PRESENTED

CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING CONTRACT

Teresa Hay, Division Administrator, Waste Management Assistance Division, presented the following item.

The Department of Natural Resources issued a nation-wide Request For Proposals (RFP) in December of 1995, to establish a construction and demolition debris recycling project in Iowa. More than 300,000 tons of construction and demolition debris is estimated to be landfilled annually in Iowa. Many materials in the construction and demolition waste stream including: wood, cardboard, metal, concrete, asphalt, bricks, carpet pad, drywall, and asphalt shingles can be recycled, but the technology and infrastructure is currently unavailable in Iowa.

Establishing an infrastructure for recycling construction and demolition debris will assist the State of Iowa in reaching the fifty percent waste reduction and recycling goal for the year 2000. Recycling of construction and demolition debris in Iowa will expand the positive economic impact that the recycling industry has had in Iowa and will provide additional recycled content materials for purchase by Iowa companies as currently encouraged and promoted by the Department of Natural Resources' Buy Recycled, Iowa campaign. This demonstration project will put the DNR's Waste Management Assistance Division in a position to assist other regions of Iowa in implementation of similar projects.

Three proposals were submitted in response to the RFP. The total amount of funding requested was over \$1.25 million. One proposal was selected for funding with a total award of \$483,000.

The following provides additional information on the three proposals received and specific information about the proposal selected for funding. The Commission is requested to approve the selected contract in the amount of \$483,000.

Project Selected for Funding:

Applicant:	Corell Contractor, Incorporated - Robert C. Hosier (515) 243-6402 1805 Euclid Avenue P.O. Box 4100 Des Moines, Iowa 50333
Request:	\$490,000
Award:	\$483,000

Description: The recommended project will implement a fully integrated construction and demolition debris collection, processing, sorting and marketing system. The project will have the capacity to process 80,000-100,000 tons of material per year and anticipates recovering for recycling 48,000 tons per year. The material to be recycled includes: wood, corrugated cardboard, metal, concrete, asphalt, brick, dirt, carpet pad, asphalt shingles, and drywall. The collection component of the project will provide opportunities for separation and collection of construction debris at individual construction sites. The processing component of the project includes construction of a processing and sorting facility in Des Moines for recovering materials from commingled demolition and construction debris. The materials will be received at a price equal to or less than the current price contractors pay to landfill waste material. The project includes a strong educational and marketing component and brings together a good combination of experience and talent including a large local hauling firm, a large local general contracting company, a local company that currently owns and operates two construction and demolition landfills, and a national consultant agency that has significant experience in the construction and demolition waste management field.

Additional Proposals Received but Not Selected For Funding:

Applicant:	Waste Management of Iowa - Dan Rigazio (515) 265-5267 P.O. Box AX Des Moines, Iowa 50303
Request:	\$500,000
Description:	<p>Waste Management of Iowa (WMI) proposed to collect, process and market construction and demolition debris. The applicant would construct a processing and sorting facility in Des Moines for construction and demolition debris. The applicant proposed to process 25,000 tons of construction and demolition debris per year with a twenty-five percent recovery rate for a total landfill diversion of 6,250 tons per year. Materials that would be recycled include: wood, corrugated cardboard, metal, plastic, concrete, asphalt and brick. Many similarities exist between WMI's proposal and the Corell Contractor proposal, however several items made WMI's proposal less attractive including:</p> <ul style="list-style-type: none">• WMI proposed to process only 25,000 tons per year versus Corell Contractor who proposed to process 50,000 tons the first year and 80,000 tons the second year.• WMI proposed to recover 6,520 tons per year when fully in operation versus 48,000 tons per year proposed by Corell Contractor.• WMI proposed to charge third party haulers a \$40 per ton tipping fee which is \$11 per ton more than it costs haulers to take construction and demolition material to the landfill.

- WMI does not propose to implement a collection program for waste materials sorted at construction sites. Corell Contractor's proposal includes an innovative collection program.

Applicant:	Landfill Intercept - James Rigsby (515) 280-9588 1325 22nd Street Des Moines, Iowa 50311
Request:	\$265,200
Description:	<p>The applicant proposed to enter structures slated for demolition and recover materials for reuse including wood floors, fixtures, plumbing fixtures, windows, and doors. The materials would be marketed to individuals conducting home rehabilitation projects and to existing retailers of used building materials in the Des Moines area. The applicant proposed to research the economics of recovering additional types of materials before demolition takes place and also proposed analyzing the effectiveness of using the Internet as a marketing tool. Many factors prevented this proposal from being selected including:</p> <ul style="list-style-type: none">• The proposal did not meet all of the objectives of the RFP.• Landfill Intercept's proposal calls for recovering materials from five houses in the first year.• \$180,000 of the \$265,200 request was for operating expenses, including a large portion for salaries.

At this time, one (1) contract in the amount of \$483,000 is presented to the Commission for approval.

(A copy of the Scope of Work for Correll Contractor, Inc. is on file in the department's Records Center)

Ms. Hay gave a detailed explanation of the contract.

Charlotte Mohr inquired as to the extent of the radius for this project.

Ms. Hay responded that it covers approximately a 50-mile radius outside the Des Moines area.

Discussion followed regarding the location of the facility, why one applicant did not meet the criteria, and the consulting services provided.

Motion was made by Charlotte Mohr to approve the Construction and Demolition Debris Recycling Contract with Correll Contractor, Inc., in the amount of \$483,000. Seconded by Verlon Britt. Motion carried unanimously.

APPROVED AS PRESENTED

Teresa Hay reviewed that at the March meeting the Commission had several questions on the LAFA contracts and noted that with General Services changing from paper towels to electric hand dryers it will reap an annual savings of \$6,000. She related that the cost of electricity versus the cost of paper towels actually does result in savings. She also reported that the use of fuel pellets by BioFuels Corporation results in a savings of 5.25 tons of coal per hour. Comparing btu's used to dry the sludge versus btu value of each fuel cube, there is a net positive of almost 80 million btu's per hour. She related that it shows very significant energy savings.

MONTHLY REPORTS

Darrell McAllister, Bureau Chief, Water Quality Bureau, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
RULEMAKING STATUS REPORT
May 1, 1996

Proposal	Notice to Comm.	Notice Published	Rules Review Comm.	Hearing	Final Summary to Commission	Rules Adopted	Rules Published	Rules Review Committee	Rule Effective
1. Ch. 20,22,23, and 29, AQ Rules Update & Waiver of Title V Applicability for Small Sources - MACT	12/18/95	1/17/96	2/05/96	2/19/96	4/15/96	4/15/96	5/08/96	5/13/96	*6/21/96
2. Ch. 20, 22 - Potential to Emit for Grain Elevators and Emergency Generators	4/15/96	5/08/96	5/14/96	*6/10/96	*6/17/96	*6/17/96	*7/17/96	*8/13/96	*8/21/96
3. Ch. 22 - Deferral of Title V Fee Payment	2/19/96	3/13/96	4/16/96	4/15/96	5/20/96	*5/20/96	*6/19/96	*7/09/96	*7/24/96
4. Ch. 23 - Waiver of Open Burning Separation Distance Requirement	5/20/96	*6/19/96	*7/09/96	*7/ /96	*7/15/96	*7/15/96	*8/14/96	*9/10/96	*9/18/96
5. Ch. 53 - Protected Water Sources	*6/17/96	*7/17/96	*8/13/96	*8/ /96	*9/16/96	*9/16/96	*10/09/96	*11/12/96	*11/13/96
6. Ch. 61 - WQ Standards - Stream Use Designations	2/19/96	3/13/96	4/16/96	4/02/96 4/03/96	5/20/96	*5/20/96	*6/19/96	*7/09/96	*7/24/96
7. Ch. 65 - Animal Feeding Operations	1/16/96	2/14/96	3/11/96	3/05/96 3/06/96	5/20/96	*5/20/96	*6/19/96	*7/09/96	*7/24/96
8. Ch. 65, 68, 121 - Navigable Waters & Manure Application	*6/17/96	*7/17/96	*8/13/96	*8/ /96	*9/16/96	*9/16/96	*10/09/96	*11/12/96	*11/13/96

9. Ch. 83 - Laboratory Certification	10/16/95	11/08/95	12/13/95	12/14/95	3/18/96	3/18/96	4/16/96	5/14/96	5/15/96
10. Ch. 103 - Sanitary Landfill Liners	5/20/96	*6/19/96	*7/09/96	*7/1/96	*7/15/96	*7/15/96	*8/14/96	*9/10/96	*9/18/96
11. Ch. 133, 135 - Underground Storage Tank - Risk Based Corrective Action Stds.	10/16/95	11/08/95	12/13/95	12/01/95 12/04/95 12/06/95 12/08/95 12/11/95 12/13/95	*6/17/96	*6/17/96	*7/17/96	*8/13/96	*8/21/96
12. Ch. 134 - Groundwater Professional Certification	12/18/95	1/17/96	2/12/96	2/06/96 2/07/96 2/08/96	4/15/96	4/15/96	5/08/96	5/14/96	*6/12/96
13. Ch. 146 - Household Hazardous Materials Program	2/19/96	3/13/96	4/10/96	4/05/96	*6/17/96	*6/17/96	*7/17/96	*8/13/96	*8/21/96

MONTHLY VARIANCE REPORT

Item	Facility	Program	Engineer	Subject	Decision	Date
1	Grain Millers (Iowa), Inc.- Mitchell County	Air Quality		Permit Requirements	Denied	04/19/96
2	Lafarge Corporation- Davenport	Air Quality		Permit Requirements	Denied	04/10/06
3	Rockwell City Development Association	Air Quality		Structures	Denied	04/12/96
4	Sully, City of	Wastewater Construction	Shive-Hattery Engineers	Ret. Act. Sludge Pump Cap.-Ext.Air	Approved	04/10/96
5	Sully, City of	Wastewater Construction	Shive-Hattery Engineers	Sludge Lagoon-Aeration	Approved	04/10/96
6	Keg Creek Bridge-Mills County	Flood Plain	Ebmeier Engineering	Freeboard	Approved	04/15/96
7	Sioux City, City of	Wastewater Operation		Monitoring Frequency	Partial Approval	04/11/96
8	Griffin Wheel Landfill-Lee County	Solid Waste	Montgomery Watson	Gas Control	Approved	04/18/96
9	John Deere Dubuque Works	Solid Waste	IIW Engineers & Surveyors	Gas Control	Approved	04/05/96
10	Emerald Oaks Subdivision-Bremer County	Watersupply Construction	Wayne Claassen Engineers & Surveying, Inc.	Design Basis	Approved	04/16/96
11	Hospers Rural Water System No. 1	Watersupply Construction	DeWild Grant Reckert & Associates	Construction Materials	Approved	04/01/96
12	Kossuth County Care Facility	Watersupply Construction	Jacobson-Westergard & Associates, Inc.	Construction Materials	Approved	04/02/96
13	West Central Iowa Rural Water Association	Watersupply Construction	DeWild Grant Reckert & Associates	Construction Materials	Approved	04/29/96
14	Westend Apartments-Boone County	Watersupply Construction	Fox Engineering	Unit Flow Rates	Denied	04/01/96

EMERGENCY RESPONSE REPORT

Month	Total Incidents	Petroleum Product	Agri - Chemical	Other Chemicals	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct.	64(51)	37(38)	9(3)	18(10)	21(32)	0(0)	35(16)	3(0)	1(0)	4(2)
Nov.	52(54)	34(24)	7(7)	11(23)	25(29)	4(0)	21(22)	1(3)	0(0)	1(0)
Dec.	56(52)	30(27)	11(2)	15(23)	28(38)	2(1)	21(12)	2(0)	1(0)	2(1)
Jan.	42(48)	18(29)	10(7)	14(12)	24(31)	0(0)	13(14)	1(1)	0(1)	4(1)
Feb.	55(48)	36(29)	11(12)	37(31)	1(0)	1(0)	12(14)	2(1)	1(1)	2(1)
Mar.	59(41)	44(27)	6(5)	9(9)	29(24)	0(0)	28(17)	0(0)	0(0)	2(0)
Apr.	93(75)	41(30)	37(25)	15(20)	37(39)	1(1)	36(30)	3(1)	2(1)	14(3)

(numbers in parentheses for the same period in fiscal year '95)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
1	6	6	10	16	20

ENFORCEMENT REPORT UPDATE

The following new enforcement actions were taken last month:

Name, Location & Field Office Number	Program	Alleged Violation	Action	Date
Lakeview Mobile Home Park, Jasper Co. (5)	Wastewater	Monitoring/Reporting; Discharge Limits; Operational Violations	Order	4/08/96
Casey, City of (4)	Wastewater	Construction Without Permit	Order	4/08/96
Team Pork, Inc., Sac Co. (3)	Wastewater	Prohibited Discharge	Order/ Penalty \$3,000	4/12/96
Gary Walker, Montgomery Co. (4)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/ Penalty \$3,000	4/26/96

Dan Dooley and Ron Rupe, Polk Co. (5)	Solid Waste	Illegal Disposal	Order/ Penalty \$2,000	4/26/96
CGB Printing Company, Newton (5)	Air Quality	Construction Without Permit	Order/ Penalty \$2,000	4/26/96
Haasco, Ltd., Dubuque (1)	Air Quality	Asbestos	Order/ Penalty \$3,000	4/26/96
Winsor Oil Company, Inc.; Joyce Winsor, Vinton (1)	Underground Tank	Remedial Action	Order/ Penalty \$1,500	4/29/96

SUMMARY OF ADMINISTRATIVE PENALTIES

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Marvin Kruse d/b/a K & C Feeds (Luana)	UT	300	12-01-92
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Duane Pospisil d/b/a Duane's Service (Lisbon)	UT	1,000	5-04-93
Franklin Raymond (Pacific Junction)	UT	300	7-07-93
*Delano's Lounge (Washington)	WS	425	9-01-93
Melvin Foubert d/b/a Mel's Repair Service (What Cheer)	UT	400	12-13-93
Stan Simmer d/b/a Tire City (Des Moines)	UT	600	12-21-93
*63-80 Cafe (Moore Oil Co.) (Malcom)	WS	200	1-20-93
William Hatch d/b/a R&R Convenience Store (Central City)	UT	2,480	2-28-93
Kurt & Mary Marzofka; John & Shirley Riordan (Sabula)	UT	500	3-31-94
Ida Grove Farm Supply Co. d/b/a Double Circle Farm Supply Co. (Galva)	UT	2,300	5-15-94
Leland Koster and Jim Koster (Alexander)	UT	350	6-11-94
*Home Asbestos & Lead Abatement Services (Johnston)	AQ	350	7-02-94
King Transfer, Ltd.; George B. King (Onawa)	UT	2,400	7-20-94
Central Water Works (Fort Dodge)	WS	275	8-21-94

Crawford Flats, Ltd. (Denison)	WS	275	8-25-94
Holland, City of	WS	550	8-28-94
Coralville Lake Terrace Assn. (North Liberty)	WS	550	9-01-94
The Marley Pump Co. (Davenport)	WS	125	9-13-94
RHCL School (Luxemberg)	WS	125	9-14-94
Bill Dettman d/b/a Dettman Oil Co. (Fonda)	UT	2,800	9-15-94
Kilpeck Mobile Home Park (Muscatine)	WS	275	9-23-94
Immanuel Lutheran Church and School (Readlyn)	WS	275	9-23-94
Sunshine Homes, Inc. (Atlantic)	WS	275	9-25-94
Scenic View Estates (Decorah)	WS	275	9-25-94
Yarmouth Elementary School (Mediapolis)	WS	375	10-12-94
Batavia, City of	WS	650	10-17-94
Geils Oil Company; Lawrence P. Geils (Donnelson)	UT	3,200	10-18-94
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	10-22-94
*Dale Hall d/b/a Hall Oil Co. (Des Moines)	UT	250	11-15-94
Donald K. Schmidt (Cedar Rapids)	UT	3,000	12-27-94
Collier Oil Co.; Clark Concrete Co. (Onawa)	UT	3,300	1-22-95
Ron Mumby (Iowa Co.)	SW	2,000	4-19-95
Jody Beaver (Cedar Co.)	SW/AQ	2,000	5-27-95
Valley Heights 1st Annex (Blue Grass)	WS	550	6-05-95
Orrie's Supper Club, Inc. (Hudson)	WS	3,000	6-11-95
Rock Falls Lounge (Rock Falls)	WS	1,500	6-12-95
Dallas County Care Facility (Adel)	WS	550	6-13-95
Crestwood Acres; Mid County Water, Inc. (Toddville)	WS	375	6-13-95
Lake Vista Improvement Assn., Inc. (Solon)	WS	200	6-14-95
Wieland & Sons Lumber Co. (Winthrop)	AQ/SW	3,000	7-04-95
Fremont County Sanitary Landfill (Fremont Co.)	SW	5,000	7-05-95
ESCORP Associates Ltd.; Arnold Olson (Cedar Rapids)	AQ	10,000	7-09-95
David A. Dohlman d/b/a Dave's Conoco (Dumont)	UT	2,300	7-18-95
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95
Sheldahl, City of	WS	200	8-30-95
Norman Klynsma d/b/a OK One Stop Service (Hospers)	UT	2,000	9-01-95
Orville Long (Polk Co.)	SW	3,000	9-12-95
Ken Frese (Keokuk Co.)	SW/AQ	1,000	10-03-95
Carter Lake, City of	WS	200	10-25-95
Meadow Knolls Addition (Marion)	WS	200	10-29-95
Welch Oil, Inc. (Williams)	UT	10,000	11-01-95
Searsboro, City of	WW	2,500	11-08-95

*R.V. Hopkins, Inc. (Davenport)	AQ	10,000	11-15-95
Economy Solar Corp. (Monticello)	AQ	7,500	11-25-95
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Site Services, Ltd. (Waterloo)	AQ	5,000	1-29-96
Patrick McCoy (Keokuk Co.)	AQ/SW	2,000	2-10-96
Steven Mullane d/b/a S & S Landscaping (Madison Co.)	AQ/SW	2,000	2-14-96
Cheryl Straughn d/b/a Cher's Mini Mart (Chapin)	UT	600	2-21-96
Dennis Sharkey d/b/a Sharkey Bldg. Wrecking (Dubuque)	AQ	2,000	3-11-96
Sportsmen's Club (Waukon)	WS	100	4-01-96
C & C Ltd. d/b/a Country View MHP (Denison)	WS	475	4-08-96
Brian McKernan d/b/a Hickory Grove MHP (Story Co.)	WW	1,000	4-15-96
Lamoni, City of	WW	1,000	4-15-96
*DBM, Inc. (Cedar Falls)	AQ	1,000	5-01-96
*Curry Environmental Services, Inc. (Marion)	AQ	4,000	5-01-96
3 Amigos (West Burlington)	WS	100	5-01-96
Midway Water & Lighting Co., Inc. (Marion)	WS	100	5-01-96
Oakland Mills Store (Mt. Pleasant)	WS	100	5-01-96
Lanesboro, City of	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	100	5-01-96
David Kramer (Camanche)	UT	600	5-03-96
Latimer, City of	WS	150	5-03-96
Ainsworth, City of	WS	150	5-03-96
Barrington Lakes Water Commission (Dubuque)	WS	100	5-03-96
Hofer's Danceland Ballroom (Walford)	WS	100	5-04-96
Fernald Water System (Nevada)	WS	100	5-04-96
Cedar River Trailer Park (Letts)	WS	100	5-04-96
McClelland Bar & Grill (Council Bluffs)	WS	100	5-06-96
# T M & M Inc. Environmental Services (Hamilton Co.)	WW	3,000	5-12-96
*First United Methodist Church (Ft. Madison)	AQ	4,000	6-01-96
# Team Pork, Inc. (Sac Co.)	WW	3,000	6-17-96
Perry, City of	WW	10,000	6-23-96
*Woden-Crystal Lake Comm. School District (Crystal lake)	AQ	1,500	7-01-96
# Tharp Production, Inc., et.al. (Mahaska Co.)	WW	3,000	-----
William R. Hennessey & Son, Inc. (Cedar Rapids)	UT	2,670	-----
Deer Ridge Estates (Ottumwa)	WS	100	-----
Mildred Eileen Bentley (Johnson Co.)	AQ/SW	1,000	-----
Dan Dooley; Ron Rupe (Polk Co.)	SW	2,000	-----
Gary Walker (Montgomery Co.)	AQ/SW	3,000	-----

CGB Printing Company (Newton)	AQ	2,000	-----
Haasco, Ltd. (Dubuque)	AQ	3,000	-----
Winsor Oil Co., Inc.; Joyce Winsor (Vinton)	UT	1,500	-----
Mederer Corporation (Creston)	WW	10,000	-----
Vermeer Manufacturing Co. (Pella)	AQ	10,000	-----
TOTAL		183,300	

The following cases have been referred to the Attorney General:

Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Vernus Wunschel d/b/a Wunschel Oil (Ida Grove)	UT	300	1-12-92
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840	11-01-94
Wunschel Oil, et.al. (Battle Creek)	UT	6,400	11-08-94
Paul L. Dunkel (Delaware Co.)	SW	1,500	11-09-94
Orrie's Supper Club, Inc. (Hudson)	WS	275	9-19-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Oscar Hahn (Solon)	SW/AQ	2,000	8-29-95
Plantation Village Mobile Home Park (Burlington)	WW	1,000	-----
TOTAL		22,654	

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Joe Eggers, Jr., et.al. (St. Ansgar)	SW	1,000
Hickory Hollow Water Co. (Ankeny)	WS	400
Wayne Transportation, Inc. (Greene)	WW	1,000
Mulgrew Oil Company (Dubuque)	HC	500
Charles Kerr (Sloan)	UT	600
Chickasaw Co. SLF, et.al. (Chickasaw Co.)	SW	1,000
Plymouth Cooperative Oil Co. (Hinton)	WW	1,000
Randy Bonin/Vickie Brannick (Hardin Co.)	SW	500
Dean Hoeness d/b/a Hoeness & Sons (Winterset)	UT	300
King's Terrace Mobile Home Court (Ames)	WW	500

ITWC, Inc. (Malcom)	AQ	1,000
Lloyd Decker (Floyd Co.)	SW	1,000
Frank Hulshizer (Benton Co.)	SW	500
Pirelli Armstrong Tire Corp. (Polk Co.)	SW	1,000
LeMars, City of	WW	5,000
Crane Co. d/b/a Crane Valves (Washington Co.)	SW	500
Donald Udell (Plymouth Co.)	SW	1,000
Oakwood Park Water, Inc. (Ankeny)	WS	1,000
U.S. Dept. of Defense (Sioux City)	UT	5,720
J.P. Scherrman, Inc. (Farley)	UT	1,160
Lester D. Davis & Evelyn McKelvogue (Warren Co.)	AQ/SW	5,000
Waverly Gravel & Ready-Mix aka Shell Rock Sand and Gravel (Shell Rock)	AQ	3,000
L.F. & Betty Everett; Vern Barker & Donald Knotts, d/b/a Barker & Knotts Construction; Gene Phillips (Ottumwa)	AQ	10,000
Eli Shada (Anamosa)	UT	1,328
M and D Tire Processing, Inc. (Decatur Co.)	SW	10,000
Merrill, City of	AQ	5,000
Riverside Plating Company (Shell Rock)	WW	1,500
Toys "R" Us, Inc. (Davenport)	UT	5,560
Coastal Mart, Inc.-Store #1081 (Davenport)	UT	5,320
Country Stores of Carroll, Ltd.; Roger Kanne (Carroll)	UT	10,000
Elite, Ltd.; Roger Kanne; James Pietig (Coon Rapids)	UT	3,500
Elite, Ltd.; Roger Kanne; James Pietig (Logan)	UT	3,288
HiWay Texaco, Ltd.; Roger Kanne; Rick Kanne (Bagley)	UT	5,000
Galva Union Elevator Co. (Galva)	UT	3,100
Joseph L. Ranker; Daryl Hollingsworth (Indianola)	UT	4,000
Larry and Kelly Miller (Ogden)	UT	2,000
R.D.J. Farms; Donald Vogt (Van Horne)	UT	1,300
Home Oil Stations; Otto-Matic; Larence Otto (Burlington)	UT	3,000
Tom Wiseman (Sheffield)	UT	3,500
Village Oaks Homeowners Assn. (Blue Grass)	WS	550
Karl and Thelma Boylan d/b/a Boylan's Service (Northboro)	UT	1,800
Thomas M. Scheetz d/b/a The Depot Food N' Fuel (Oxford)	UT	2,300
William Jensen d/b/a B & B Tire & Oil Co. (Avoca)	UT	2,300
Crabtree Lake Resort (Rhodes)	WW	5,400
Elmer R. Faust d/b/a Faust Garage & Grocery (Delaware)	UT	2,300
American Coals Corporation - Site #5 (Bussey)	SW/AQ	10,000
H.E.W., Inc. aka Hazardous Environmental Wastes, Inc., aka Algona Roofing and Insulation, Inc. (Algona)	AQ	5,000
Bankston, City of	WS	550
Wunschel Oil, et.al. (Ida Grove)	UT	10,000
Chicago & North Western Transportation Co. (Clay Co.)	WW/SW	10,000
Jim Foust (Indianola)	SW	2,175

Titan Wheel International, Inc. (Walcott)	WW	10,000
Ronald Sizemore and Mark Murphy (Eldora)	UT	3,200
Mike Murphy d/b/a Hawley Heating & Air (Keokuk)	AQ	10,000
Boomsma's Egg, Inc. (Alden/Galt)	AQ	10,000
George Dolan (Northwood)	UT	3,300
Woodbury County Highway Department (Woodbury Co.)	UT	4,000
Keith Owens and Howard Maurer (Wilton)	UT	3,100
Tom Babinat d/b/a Tom's Car Care (Grundy Center)	UT	3,600
Richard Beckett (Villisca)	UT	1,300
Gilmore City-Bradgate Comm. School Dist. (Gilmore City)	AQ	6,000
Henry and Randy Krohn d/b/a Krohn Const. (Waukee)	AQ/SW	4,000
James and Roxann Neneman; J&R Mini Mart (Council Bluffs)	UT	3,900
Simonsen Industries, Inc. (Cherokee Co.)	WW	5,000
Richard Waugh d/b/a Dick's Apco Car Wash (Hampton)	UT	885
Sale-R-Villa Const., Inc. (Perry)	AQ	10,000
Otis Schultz d/b/a Schultz Oil Co. (Sac City)	UT	2,200
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
# Larry Royer (Guthrie Co.)	WW	1,000
Randy Ballard (Fayette Co.)	FP	2,000
Bacon Addition (Monticello)	WS	375
Ferris Sullivan d/b/a Sullivan's Sinclair (Preston)	UT	2,000
Leonard Borman (Preston)	UT	2,000
Economy Solar Corp.; Jeffrey C. Intlekofer (Cedar Rapids)	AQ	10,000
Marty Feinberg d/b/a Feinberg Scrap Iron;		
Betty Feinberg; F & F Metals (Lee Co.)	HC/WW	10,000
Cumberland Ridge First Addition (North Liberty)	WS	550
Dan Peterson d/b/a Peterson Backhoe (Dumont)	AQ	3,000
Earth Media Technologies, Inc. (Polk Co.)	SW	3,000
Allison-Bristow Community School District (Allison)	AQ	5,000
Allison Fire Dept.; Allison, City of	AQ	5,000
Pilot Oil Corporation (Walcott)	WW/UT	5,000
Leonard C. Page (Adams Co.)	SW	3,000
Mark Twain Meadows Assoc. (Muscatine)	WS	900
White Oaks Homeowners Assn. (Ankeny)	WS	1,000
Boyer Valley Company (Arion)	WW	8,000
Wilbur McNear; Gilbert Persinger (Smithland)	UT	2,500
Donald Krieger (Terrill)	UT	600
Donald J. Foreman d/b/a D & R Feedlots (Woodbury Co.)	WW	3,000
Wilbur McNear d/b/a McNear Oil Co. (Charter Oak)	UT	2,000
Holiday Mobile Lodge, Inc. (Johnson Co.)	SW/AQ	2,000
Shell Rock Products, Inc. (Butler Co.)	SW/AQ	10,000
Colwell, City of	WS	200
E.L. Incorporated (Algona)	SW	5,000
Weber Construction, Inc. (Cascade)	AQ	4,000

Tri-County Bank & Trust (Cascade)	AQ	4,000
Central Community School District (DeWitt)	AQ	5,000
Jack Pinney Operations, Inc. (Sioux City)	AQ	4,000
# Gary Watson (Cerro Gordo Co.)	WW	2,500
Vernon Kinsinger d/b/a K & K Sanitation (Washington Co.)	AQ/SW	10,000
Roy Burger (Gillette Grove)	UT	5,400
Marvin Wernimont; Filter Friend Recycling (Buena Vista)	AQ/SW	2,000
Spencer Municipal Hospital (Spencer)	AQ	3,000
Massena, City of	WW	1,200
Westside Park for Mobile Homes (Burlington)	WW	3,000
Climax Molybdenum Company (Ft. Madison)	HC/AQ	10,000
Clarence, City of	WW	3,000
All-States Quality Foods (Charles City)	WW	5,000
Bill Shirbroun d/b/a Was Broken Pallet (Webster Co.)	AQ/SW	1,000
Daryl & Karen Hollingsworth d/b/a Medora Store (Indianola)	UT	4,800
Hidden Valley Mobile Home Park (Washington)	WW	2,000
Jolly Roger Campground & Marina (North Liberty)	WW	1,000
Markley Knock d/b/a Knock's Bldg. Supply (Parkersburg)	AQ/SW	2,000
Ben Haven Mobile Home Park (Quasqueton)	WS	500
Dean Williams d/b/a Williams Oil Co. (Stuart)	UT	4,800
Russell Stagg (Muscatine Co.)	AQ/SW	2,000
Eastern Iowa Tire Recycling, Inc. (Muscatine)	SW/WW	2,500
Obie's Hurstville Tap, Inc. (Maquoketa)	WS	100
Edward Bodensteiner (Des Moines)	UT	3,200
Dallas County Care Facility (Adel)	WW	2,500
# Marlin Brenneman (Iowa Co.)	WW	3,000
Mount Joy Mobile Home Park (Davenport)	WW	2,000
Louisa-Muscatine Community School (Letts)	WS	500
Davenport Travel Plaza (Walcott)	WS	250
C & I Eggs (Webster Co.)	WW	3,000
TOTAL		427,911

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Marshalltown, City of	WW	1,000
Doolittle Oil Company, Inc. (Webster City)	UT	1,250
*Curry Environmental Services, Inc. (Marion)	AQ	1,000
*First United Methodist Church (Ft. Madison)	AQ	500
Jerry McElmeel d/b/a McElmeel & Sons Const. (Monticello)	AQ	1,250
*DBM, Inc. (Cedar Falls)	AQ	1,000
Enviro Safe Air, Inc. (Sioux City)	AQ	5,000

Clay Contractors, Inc. (Spencer)	AQ	1,000
Meadow View Country Club (Central City)	WS	100

TOTAL 12,100

The \$100 penalty assessed to Cheryl's (Hopkinton) has been rescinded.

The \$100 penalty assessed to Apostolic Christian Church of Oakville (Oakville) has been rescinded.

The \$100 penalty assessed to Hide-A-Way Manor (Cedar Rapids) has been rescinded.

ATTORNEY GENERAL REFERRALS

May 1, 1996

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
AMPC Lytton (3)	Wastewater	Operational Violations	Referred to Attorney General	Referred	8/10/94
American Asbestos Training Center, Ltd. Cedar Rapids (1)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Continued	7/22/94 8/29/94
American Asbestos Training Center, Ltd. Waterloo (1)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Continued	3/21/94 8/29/94
DeCoster, A.J. Wright Co. (2) Updated	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Defendant's Pre- Answer Motions Filed State's Resistance Filed Order Denying Defendant's Motion Defendant's Motion for Separate Trials State's Resistance Filed	7/17/95 1/23/96 3/06/96 3/27/96 4/12/96 4/19/96 4/29/96
Dunkel, Paul L. Delaware Co. (1)	Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed	6/19/95 2/16/96
Economy Solar Corp. Ft. Madison (6)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed	3/21/94 8/29/94

May 1996

Environmental Protection Commission Minutes

Updated

Trial Date	11/06/95
Ruling	11/30/95
(\$1,600/Civil & Injunction)	
Notice of Appeal	1/03/96
Voluntary Dismissal	4/11/96

Economy Solar Corp. Waterloo (1)	Air Quality	Asbestos		Referred to Attorney General	Referred Petition Filed Trial Continued	3/21/94 8/29/94
Economy Solar Corp. Cedar Rapids (1)	Air Quality	Asbestos		Referred to Attorney General	Referred Petition Filed Trial Continued	7/22/94 8/29/94
Economy Solar Corp./Central Community School DeWitt (6)	Air Quality	Asbestos		Referred to Attorney General	Referred	7/17/95
Ervin, Don Webster Co. (2)	Solid Waste	Operation Permit	Without	Order/Penalty	Referred Judgment for \$1,000 Execution & Order to Levy Application to Condemn Funds Partial Payment Received (\$331)	4/16/90 7/13/90 9/28/90 11/27/90 11/30/90
		Permit Violations		Referred to Attorney General	Referred Temporary Injunction Order of Contempt Order Granting Stay Contempt Reversed (Court of Appeals) Application for Further Review Supreme Ct. Reversed Court of Appeals Order to Serve Sentence Application for Hearing Order Denying Reconsideration of Sentence Partial Consent Decree Consent Decree (\$1,000,000/Civil)	9/16/91 9/18/91 12/20/91 12/26/91 9/29/92 10/16/92 21/7/93 3/17/93 3/18/93 3/19/93 1/10/93 5/30/95

Environmental Protection Commission Minutes

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ESCORP/Cryotech Cedar Rapids (1)	Air Quality	Asbestos	Referred to Attorney General	Referred	7/17/95
Hahn, Oscar Solon (6) Updated	Air Quality Solid Waste	Open Burning Illegal Disposal	Order/Penalty	Referred Petition Filed	12/18/95 4/18/96
Huyser, James; Trust Trucking Lovilia (5) Updated	Underground Tank	Site Assessment	Referred to Attorney General	Referred Petition Filed	11/21/94 4/18/96
Jarvis, Marjorie; Terry Strong Council Bluffs (4)	Underground Tank	Closure Investigation	Order	Referred Petition Filed	11/15/93 2/14/94
Klocke, Paul and Mary Kay Carroll (4)	Flood Plain	Unauthorized Construction	Order	Referred	10/16/95
Lee, Harold and Evelyn Keokuk Co. (6)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	10/16/95
Martinez, Vincent d/b/a Martinez Sewer Service Davenport (6)	Hazardous Condition	Remedial Action	Order/Penalty	Referred Petition Filed Partial Default Judgment (Injunction)	2/17/92 12/21/92 10/11/94
Orrie's Supper Club, Inc. Hudson (1)	Drinking Water	Monitoring/Reporting; Lead & Copper	Order/Penalty	Referred	10/16/95
Owens & Owens Realty, Inc. Wilton (6) Updated	Underground Tank	DNR Defendant	Defense	Petition Filed Answer Filed	3/29/96 4/19/96
Plantation Village Mobile Home Park Burlington (6)	Wastewater	Monitoring/Reporting	Order/Penalty	Referred	10/16/95
Rayburn Court for Mobile Homes Mason City (2)	Drinking Water	Monitoring/Reporting; Lead & Copper	Order/Penalty	Referred Petition Filed	11/21/94 5/02/95
Reed, Verna and Don; Andrea Silsby Union Co. (4)	Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed Default Judgment	6/20/94 8/10/94 12/12/94
Relative, Inc.; Doug	Underground			Referred	10/17/94

Smuck Des Moines (5)	Tank	Insurance Violation	Order/Penalty	Petition Filed	5/12/95
Underwood, Paul d/b/a Underwood Excavating and Demolition Cedar Rapids (1)	Air Quality	Asbestos	Order/Penalty	Referred	5/15/95
Wunschel Oil Co.; Vernus, Jaquelyn and Mark Wunschel Ida Grove (3)	Underground Tank	Site Assessment	Order/Penalty	Referred	1/17/95

**Contested Cases
May 1, 1996**

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
1-23-86	Oelwein Soil Service	Admin. Order	WW	Murphy	Hearing continued; additional testing being done.
6-08-89	Shaver Road Investments	Site Registry	HW	Kennedy	Draft consent order under review by EPA.
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Kennedy	Draft consent order under review by EPA.
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Murphy	Hearing continued. Discovery initiated.
10-24-89	Farmers Cooperative Elevator Assoc. of Sheldon	Site Registry	HC	Kennedy	Consent order signed.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	HC	Murphy	Hearing continued pending negotiations.
5-08-90	Texaco Inc./Chemplex Co. Site	Site Registry	HW	-----	Settlement proposed.
5-14-90	Alter Trading Corp. (Council Bluffs)	Admin. Order	SW	Kennedy	EPD considering public hearings.
6-20-90	Des Moines, City of	NPDES Permit Cond.	WW	Hansen	EPD met with City to resolve appeal issues. Follow-up with EPD regarding status-2/96.
7-02-90	Keokuk Savings Bank and Trust; Keokuk Coal Gas Site	Site Registry	HW	-----	Hearing continued.
7-30-90	Key City Coal Gas Site; and Howard Pixler	Site Registry	HW	-----	Decision appealed (Pixler).

8-01-90	J.I. Case Company	Site Registry	HW	Preziosi	Hearing continued.
9-12-90	Michael & Joyce Haws; George H. Gronau	Admin. Order	UT	Wornson	New party has assumed liability. Will dismiss case upon completion of SCR. SCR completed - payment dispute with consultant. Settlement meeting scheduled - 3/96.
10-15-90	Westside General Store Corp.	Admin. Order	UT	Wornson	Evaluating inability to pay - UST fund eligibility.
12-03-90	United States Gypsum Co.; Smitty's Oil	Site Registry	HC	Preziosi	Negotiating before filing.
12-27-90	McAtee Tire Service, Inc.	Admin. Order	SW	Kennedy	Amended order issued 1/11/96.
1-07-91	Joe E. Eggers, Jr.; Joe and Mary Eggers	Admin. Order/Penalty	SW	Kennedy	Hearing continued. Clean-up continuing 3/96.
5-20-91	Great Rivers Coop-Lockridge	Site Registry	HC	Murphy	Settlement proposed.
9-25-91	Archer Daniels Midland	Admin. Order	SW	Kennedy	DNR engineers reviewing documents.
1-17-92	Hickory Hollow Water Co.	Admin. Order/Penalty	WS	Hansen	Settlement offer to WS. Counter offer 7/13/93. Dept. response on 8/3/93. Facility response 8/11/93. 12/93 Dept. letter to attorney. Construction permit issued for fluoride removal. Facility to be installed by 10/30/94. Letter to attorney regarding appeal closure. Response requested by 6/2/96.
1-30-92	Center Oil Co., Inc.	Admin. Order	HC	Murphy	Negotiating before filing.
4-09-92	Wayne Transports, Inc.	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
4-15-92	Mulgrew Oil Co.	Admin. Order/Penalty	HC	Wornson	Settlement letter sent 8/31/94. SCR completed. Low risk monitoring site.
4-24-92	Charles A. Kerr	Admin. Order/Penalty	UT	Wornson	Financial inability claimed. Warning letter sent 1/25/95.
5-05-92	Plymouth Cooperative Oil Co.	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
5-12-92	Paris & Sons, Inc.	Site Registry	HC	Murphy	Negotiating before filing.
5-15-92	Heartland Lysine, Inc.	Tax Certification	AQ	Preziosi	Negotiating before filing.
5-27-92	Beckett Chevrolet-Olds	Admin. Order	UT	Wornson	Financial inability claimed. Claimant completing financial documents.

6-23-92	Chickasaw County Board of Supervisors, Chickasaw County Sanitary Landfill	Admin. Order/Penalty	SW	Kennedy	County to include closing in FY 1997 budget. Letter regarding budget sent 12/19/95.
8-06-92	Randy Bonin and Vickie Brannick	Admin. Order/Penalty	SW	Kennedy	Clean-up progress is slow. Appellant's attorney to reply by 3/1/96.
8-24-92	Dean Hoeness d/b/a Hoeness & Sons	Admin. Order/Penalty	UT	Wornson	Financial inability claimed. Insufficient documentation.
9-21-92	ITWC	Admin. Order/Penalty	AQ	Preziosi	Awaiting results of F.O. 5 site inspection.
9-22-92	King's Terrace MHP	Admin. Order/Penalty	WW	Hansen	8/94-Letter to facility regarding resolution of appeal. Follow-up letter 3/96.
10-06-92	Lloyd Decker	Admin. Order/Penalty	SW	Kennedy	Hearing continued. Clean-up progressing. Next action 5/10/96.
11-16-92	Frank Hulshizer	Admin. Order/Penalty	SW	Kennedy	Amended order issued 1/11/96.
12-14-92	Quantum	Permit Conditions	WW	Hansen	3/30/93 Dept. settlement offer made. 5/03/93 response from company. Company collecting data. Company response submitted 12/93. EPD to review information regarding permit calculations.
1-22-93	Pirelli Armstrong Tire Co.	Admin. Order/Penalty	SW	Kennedy	F.O. 5 to meet with company 2/26/96 regarding land application.
4-05-93	Mapleton, City of	WW Operator Certification	WW	Hansen	Under review by EPD. Appeal discussion with EPD staff.
4-12-93	LeMars, City of	Admin. Order/Penalty	WW	Hansen	Construction permit issued. Schedule submitted by City for remaining construction found unacceptable. Request for acceptable schedule - 1/31/96.
4-19-93	Council Bluffs, City of	Permit Conditions	WW	Hansen	Under review by EPD.
4-21-93	Donald Udell	Admin. Order/Penalty	SW	Kennedy	Clean-up completed. Penalty settlement due.
4-26-93	Crane Co.	Admin. Order/Penalty	SW	Kennedy	DNR engineers meeting with company.
6-21-93	Jacobs Energy Corp., Inc.	Permit Denial	AQ	Preziosi	Hearing set for 5/10/96.
7-06-93 7-28-93	Dennis E. Good Berniece K. Nease	Admin. Order	UT	Wornson	1/25/96-Letter to parties regarding new UST Fund Innocent Owner Fund and requesting settlement

					conference.
7-09-93	Oakwood Park Water, Inc.	Admin. Order/Penalty	WS	Hansen	Construction permit issued 2/94. Facility to be installed by 11/30/94. Letter to attorney regarding appeal resolution. Response requested by 6/2/96.
7-20-93	U.S. Dept. of Defense	Admin. Order/Penalty	UT	Wornson	SCRs on the site and several others underway. Settlement with City of Sioux City.
8-03-93	Waldo Vannoy	Admin. Order	UT	Wornson	Compliance initiated.
8-24-93	Green Valley Chemical	Permit Conditions	WW	Hanson	Survey completed. Meeting to discuss survey 9/11/94. Reviewed by EPD 3/96. Settlement letter and revised permit to facility. Revised permit issued. Settled 4/09/96.
10-15-93	Bedford, City of	Plant Classification	WW	Hansen	Appeal dismissed 4/24/96. Closed.
11-15-93	J.P. Scherrman, Inc.	Admin. Order/Penalty	UT	Wornson	SCR accepted. Penalty letter sent 6/14/95. No response received.
11-16-93	Iowa Southern Utilities	Permit Conditions	AQ	Preziosi	Awaiting summary of issues from attorney.
12-13-93	Lester R. Davis and Evelyn McKelvogue	Admin. Order/Penalty	AQ/SW	Kennedy	Satisfactory clean-up complete. Hearing set for 5/03/96.
12-23-93	Waverly Gravel & Ready-Mix aka Shell Rock Sand and Gravel	Admin. Order/Penalty	AQ	Preziosi	Negotiating penalty. Settlement close.
1-06-94	L.F. Everett and Betty Everett	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
1-20-94	Gene Phillips d/b/a Phillips Sanitation				
1-07-94	Eli Shada	Admin. Order/Penalty	UT	Wornson	SCR received 1/18/96; under review. Penalty settlement pending.
1-18-94	M & D Tire Processing, Inc.	Admin. Order/Penalty	SW	Kennedy	Clean-up progressing. Penalty settlement pending.
1-18-94	Merrill, City of	Admin. Order/Penalty	AQ	Preziosi	Awaiting documentation and penalty payment.
1-27-94	Archer-Daniels-Midland	Permit Conditions	AQ	Preziosi	Negotiating before filing.
2-02-94	John Deere Waterloo Works	Tax Certification	WW	Hansen	Appeal dismissed 4/25/96. Closed.

2-14-94	Economy Solar Corp. (94-AQ-04)	Admin. Order/Penalty	AQ	Preziosi	Judicial review decision received in favor of DNR. No further appeal filed.
2-15-94	Riverside Plating	Admin. Order/Penalty	WW	Hansen	Settlement offer received from company regarding penalty 2/96. Dept. letter to company regarding settlement. Response requested by 4/30/96. Company response by 4/30/96. Company response sent 4/29/96.
2-21-94	Toys "R" Us	Admin. Order/Penalty	UT	Wornson	SCR received. Negotiating penalty.
2-28-94	Coastal Mart - Davenport	Admin. Order/Penalty	UT	Wornson	Deficient SCR. Letter sent. Penalty on appeal.
3-03-94	Burlington Northern Railroad	Tax Certification	WW	Hansen	3/96 - Letter to company regarding appeal. Response requested by 4/30/96.
3-08-94	Country Stores of Carroll, Ltd.; Elite Ltd.; Roger Kanne; James Pietig (Logan) (Coon Rapids)	Admin. Order/Penalty	UT	Wornson	All SCRs received. Settlement meeting 2/5/95. DNR response due.
4-19-94	Galva Union Elevator Co.	Admin. Order/Penalty	UT	Wornson	Negotiating penalty.
5-10-94	Dennis Malone; Joanne Malone	Admin. Order/Penalty	UT	Wornson	Untimely appeal. No closure as of 2/96.
5-27-94	Joseph L. Ranker; Daryl Hollingsworth	Admin. Order/Penalty	UT	Wornson	Insurance to qualify for remedial benefits unpaid. Issued second Admin. Order for failure to register.
6-03-94	Maquoketa, City of	Admin. Order	WW	Hansen	11/4/94 - Construction permit issued for new facility. Construction of SBR units completed-working well. 1/8/96 - Letter from City requesting order be closed. Dept. response regarding closing order and dismissing appeal 3/20/96. Construction completed. City requested dismissal of appeal. Closed 4/15/96.
6-08-94	Larry & Kelly Miller	Admin. Order/Penalty	UT	Wornson	SCR accepted 1/26/96. Negotiating penalty.
6-15-94	Lakeview Heights	Permit Conditions	WS	Hansen	Facility proposal under review by WS. DNR response to appeal - 4/96.
6-20-94	R.D.J. Farms and Donald Vogt	Admin. Order/Penalty	UT	Wornson	SCR accepted - negotiating penalty.
6-24-94	Griffith Oil Corp.	Admin. Order	UT	Wornson	SCR accepted - negotiating penalty.

6-24-94	Larence Otto	Admin. Order/Penalty	UT	Wornson	SCR approved 2/1/96. Follow-up letter - 4/96.
7-07-94	Rose Bar Tire Shredding	Admin. Order	SW	Kennedy	In bankruptcy. 1/96 Working on fire lanes.
7-12-94	Tom Wiseman	Admin. Order/Penalty	UT	Wornson	Appeal untimely. Follow-up letter - 2/96.
7-15-94	Village Oaks Homeowners	Admin. Order/Penalty	WS	Hansen	WS reviewed file for compliance. 2/96 - in compliance and eligible for reduced monitoring.
7-25-94	ACC Chemical Co.; Getty Chemical Co.	Permit Conditions	WW	Hansen	Appeal settled. Revised permit accepted by appellants. Sent to EPA for review 12/95. EPA response approving permit received. Permit issued 2/96.
8-12-94	Karl and Thelma Boylan d/b/a Boylan's Service	Admin. Order/Penalty	UT	Wornson	Inability to pay. Failed to return required documentation. Follow-up letter - 2/96.
8-18-94	Thomas Scheetz d/b/a The Depot Food & Fuel	Admin. Order/Penalty	UT	Wornson	SCR accepted - negotiating penalty.
8-29-94	Atlantic, City of	Admin. Order	WW	Hansen	Under review by EPD. Contacted EPD and FO regarding appeal resolution.
8-29-94	B and B Tire and Oil	Admin. Order/Penalty	UT	Wornson	SCR accepted - negotiating penalty.
9-01-94	Elmer R. Faust d/b/a Faust Garage & Grocery	Admin. Order/Penalty	UT	Wornson	SCR accepted - negotiating penalty.
9-02-94	Crabtree Lake Resort	Admin. Order/Penalty	WW	Hansen	Facility in compliance.
9-06-94	HEW, inc.	Admin. Order/Penalty	AQ	Preziosi	3/1/96 - Amended order to be issued.
9-09-94	American Coals Corp., Site 5 (Bussey)	Admin. Order/Penalty	SW/AQ	Kennedy	Bankruptcy filed. Phone conversation regarding reorganization 1/23/96.
9-15-94	Bankston	Admin. Order/Penalty	WS	Hansen	1/95 - Information from City. Compliance initiated. Respond to City regarding settlement.
9-16-94	Wunschel Oil Co.; Vernus Wunschel; Jacquelyn Wunschel; Mark Wunschel (Ida Grove)	Admin. Order/Penalty	UT	Wornson	Consent order. SCR received. Revisions to SCR required - overdue. Follow-up letter sent 2/26/96.
9-23-94	Chicago and Northwestern Transportation	Admin. Order/Penalty	SW/WW	Murphy	Negotiating before filing.
9-26-94	James D. Foust	Admin. Order/Penalty	SW	Kennedy	Settlement offer made 1/23/96. FO rejected offer.

10-07-94	Titan Wheel International	Admin. Order/Penalty	WW	Hansen	Revised BMR report submitted/reviewed by WW Permits. Letter to facility regarding report.
10-19-94	Ronald Sizemore; Mark Murphy	Admin. Order/Penalty	UT	Wornson	Inability to pay documented. Review for UST Fund Innocent Owner or LUST Trust Fund.
10-25-94	Mike Murphy d/b/a Hawley Heating & Air	Admin. Order/Penalty	AQ	Preziosi	Consent order being finalized.
10-26-94	Boomsma's Inc.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
10-27-94	George Dolan	Admin. Order/Penalty	UT	Wornson	SCR accepted - negotiating penalty.
10-31-94	Woodbury Co. Highway Dept.	Admin. Order/Penalty	UT	Wornson	SCR received - negotiating penalty.
10-31-94	Owens & Owens Realty, Inc.; Keith Owens; Howard Maurer	Admin. Order/Penalty	UT	Wornson	Proposed decision 10/5/95. Appealed 11/3/95. EPC confirmed 2/19/96. Decision appealed 3/29/96.
11-02-94	Richard Waugh	Admin. Order/Penalty	UT	Wornson	Site check received - negotiating penalty.
11-07-94	Jerry Smith; Norma S. Nelson	Permit Issuance	FP	Clark	Proposed decision 12/07/95. No appeal. Petition for judicial review 1/22/96. Petition dismissed 4/9/96.
11-10-94	Williams Pipeline Company	Permit Denial	AQ	Preziosi	Negotiating before filing.
11-14-94	Tom Babinat d/b/a Tom's Car Care	Admin. Order/Penalty	UT	Wornson	Inability to pay - request documentation.
11-28-94	Richard Beckett	Admin. Order/Penalty	UT	Wornson	Referral to UST Fund. Follow-up - 3/96.
12-14-94	Campbell Clean-Up Service	Permit Denial	AQ	Preziosi	Negotiating before filing.
1-10-95	Steamboat Rock	Admin. Order	WS	Hansen	2/95 - Settlement offer by City and response by Dept. 4/95 - Dept. letter to City regarding settlement. 5/95 - construction approved by WS section for chlorination equipment. 1/17/96 - Letter to City regarding resolution of appeal. No response as of 2/28/96. Dept. follow-up letter - 3/96. Response from City 4/8/96.
1-11-95	Henry and Randy Krohn d/b/a Krohn Construction	Admin. Order/Penalty	AQ/SW	Kennedy	Settlement offer made. FO rejected offer.

1-13-95	James and Roxann Neneman	Admin. Order/Penalty	UT	Wornson	Inability to pay. Forms sent. No response. Follow-up - 3/96.
1-13-95	Simonsen Industries, Inc.	Admin. Order/Penalty	WW	Hansen	2/28/95 - Submittal by facility's engineer regarding land application of sludge. Under review by WW permits staff.
2-23-95	Lehigh Portland Cement	Permit Conditions	WW	Hansen	Informal settlement meeting held on 4/30/96. Facility to provide status report regarding TSS permit limit by 7/31/96.
2-27-95	Sale-R-Villa Construction	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
3-23-95	American Coals Corp.	Admin. Order	SW	Kennedy	In bankruptcy. Phone conversation 1/23/96 regarding reorganization.
4-13-95	The Weitz Corp.; Barton Solvents, Inc.	Admin. Order	HC	Kennedy	Informal meeting scheduled for 4/25/96.
4-19-95	Otis Schultz d/b/a Schultz Oil Co.	Admin. Order/Penalty	UT	Wornson	SCR accepted - negotiating penalty.
4-21-95	Randy Ballard	Admin. Order/Penalty	FP	Clark	Judgment on default; order affirmed 3/8/96.
4-26-95	Larry Royer	Admin. Order/Penalty	WW	Clark	Settlement letter 1/10/96.
4-28-95	Perry, City of	Admin. Order	WW	Hansen	Proposed consent order to City 2/15/96. Response received 3/15/96. DNR response 3/29/96. Consent order issued 4/96. Settled.
5-03-95	Bacon Addition Homeowners Assn.	Admin. Order/Penalty	WS	Clark	Settlement contact 1/10/96.
5-04-95	Margaret & Weldon Shoppa d/b/a M & W Mobile Home Park	Admin. Order	WW	Kennedy	Letter requesting construction schedule - 12/95. Response unsatisfactory. Hearing set for 5/17/96.
5-05-95	C & O Recycling Enterprises; Douglas W. Owen	Permit Denial	AQ	Preziosi	Negotiating before filing.
5-23-95	Leonard Bormann	Admin. Order/Penalty	UT	Wornson	SCR received 10/26/95. Free product report overdue. Follow-up - 3/96.
5-25-95	Ferris Sullivan d/b/a Sullivan's Sinclair	Admin. Order/Penalty	UT	Wornson	Revised SCR received - negotiating penalty.
5-25-95	Marty Feinberg d/b/a Feinberg Scrap Iron; Betty Feinberg; F & F Metals	Admin. Order/Penalty	HC/WW	Kennedy	Hearing set for 6/28/96. Clean-up continuing.

5-25-95	E.I. DuPont DeNemours (95-A-133)	Permit Conditions	AQ	Preziosi	Awaiting engineering evaluation.
5-30-95	Economy Solar Corp.; Jeffrey C. Intlekofer (95-AQ-14)	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
5-30-95	Earth Media Technologies	Admin. Order/Penalty	SW	Kennedy	In the process of clean-up.
5-31-95	E.I. DuPont DeNemours (91-A-266 thru 91-A- 269)	Permit Conditions	AQ	Preziosi	Awaiting engineering evaluation.
6-01-95	Mark Twain Meadows Assoc.	Admin. Order/Penalty	WS	Kennedy	Negotiating before filing.
6-06-95	Doolittle Oil Co., Inc.	Admin. Order/Penalty	UT	Wornson	Penalty paid 4/4/96. Settled.
6-07-95	Cumberland Ridge Homeowners	Admin. Order/Penalty	WS	Kennedy	Awaiting penalty payment - due 3/1/96.
6-09-95	Don Peterson d/b/a Peterson Backhoe	Admin. Order/Penalty	AQ	Preziosi	Settlement close.
6-16-95	Allison-Bristow Community School	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6-16-95	Allison Fire Dept.; City of Allison	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6-16-95	Pilot Oil Corporation	Admin. Order/Penalty	WW/UT	Murphy	Negotiating before filing.
6-20-95	Toledo, City of	Permit Conditions	WW	Hansen	WW permits to negotiate settlement. Status of negotiations requested 1/9/96.
6-23-95	Leonard C. Page	Admin. Order/Penalty	SW	Kennedy	Penalty settlement due 2/15/96.
6-29-95	White Oaks Homeowners Assn.	Admin. Order/Penalty	WS	Hansen	Informal meeting held 3/8/96. 4/25/96 follow-up letter to facility.
7-03-95	Donald J. Foreman d/b/a D & R Feedlots	Admin. Order/Penalty	WW	Hansen	Negotiating before filing.
7-05-95	Boyer Valley Co.	Admin. Order/Penalty	WW	Hansen	Informal meeting scheduled for 5/7/96.
7-10-95	Donald Krieger	Admin. Order/Penalty	UT	Wornson	Tanks removed. Report due.
7-10-95	Gilbert Persinger	Admin. Order/Penalty	UT	Wornson	SCR received - rejected. Review progress - 4/96.
7-13-95	Organic Technologies Corp.	Admin. Order	SW	Kennedy	Hearing set for 6/11/96.
7-28-95	Harold T. Knott; James	Admin. Order	UT	Wornson	Negotiating before filing.

	C. Knott				
8-01-95	Wilbur McNear d/b/a McNear Oil Co.	Admin. Order/Penalty	UT	Wornson	SCR not received as of 2/29/96.
8-18-95	Holiday Mobile Lodge, Inc.	Admin. Order/Penalty	AQ/SW	Kennedy	Appellant's attorney reply due 2/29/96.
8-18-95	Redmond Enterprises, Inc.	Admin. Order	UT	Wornson	Compliance initiated.
8-24-95	Shell Rock Products, Inc.	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
8-29-95	Iowa City, City of	Admin. Order	WW	Hansen	Schedule for amended AO agreed upon. Amended AO to be issued.
9-06-95	Kraft Foods Inc.; Oscar Mayer Division	Variance Denial	WW	Hansen	Informal meeting held 10/10/95. Information to be submitted by Kraft to WS section. Follow-up letter requesting information sent 1/12/96. Letter 2/19/96 granting additional time for information.
9-12-95	Colwell, City of	Admin. Order/Penalty	WS	Hansen	12/21/95 - Letter to City requiring 2nd round monitoring/reporting prior to penalty reduction discussions. 3/31/96 - no response from City.
9-20-95	FKI Industries, Inc.; Fairfield Aluminum, Inc.	Admin. Order	WW/HC	Murphy	Negotiating before filing.
10-03-95	Jerry McElmeel d/b/a McElmeel & Sons Construction	Admin. Order/Penalty	AQ	Preziosi	Penalty paid 4-10-96. Settled.
10-09-95	E.L. Incorporated	Admin. Order/Penalty	SW	Kennedy	Appellant no longer accepting waste. Renewal permit may be requested.
10-17-95	Tri-County Bank	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
10-17-95	Weber Construction, Inc.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
10-20-95	Central Community School District	Admin. Order/Penalty	AQ	Preziosi	Settlement meeting 4/10/96.
11-02-95	Salsbury Chemicals, Inc.	Permit Conditions	WW	Hansen	Informal meeting held 12/4/95. Company response 1/26/96. Review by WW permits completed 3/21/96. Under review by WQ section. Response requested by 5/31/96.
11-03-95	Jack Pinney Operations, Inc. aka Jack Pinney Grading	Admin. Order/Penalty	AQ	Preziosi	Settlement close.

11-14-95	Mike Barker	GW Professional Denial	UT	Wornson	Settlement negotiations underway.
11-21-95	Gary Watson	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
12-01-95	Clay Contractors, Inc.	Admin. Order/Penalty	AQ	Preziosi	Penalty paid 4/26/96. Settled.
12-12-95	Vernon Kinsinger; K & K Sanitation	Admin. Order/Penalty	AQ/SW	Kennedy	Informal meeting to be held after 3/12/96.
12-13-95	Roy Burger	Admin. Order/Penalty	UT	Wornson	Compliance complete - negotiating penalty.
12-18-95	Omega Cabinets	Permit Denial	AQ	Preziosi	Settlement close.
12-27-95	Ag Processing, Inc.	Permit Denial	AQ	Preziosi	Negotiating before filing.
12-28-95	Marvin Wernimont; Filter Friend Recycling	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
12-29-95	Spencer Memorial Hospital	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
1-04-96	Catherine E. Meredith	Admin. Order	UT	Wornson	Current owner to complete SCR.
1-04-96	Massena, City of	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
1-08-96	Westside Park for Mobile Homes	Admin. Order/Penalty	WW	Hansen	Past due monthly monitoring reports submitted to FO 6. Facility inspection 2/28/96 by FO 6/.
1-11-96	Climax Molybdenum Company	Admin. Order/Penalty	AQ/HC	Preziosi	Negotiating before filing.
1-12-96	Clarence, City of	Admin. Order/Penalty	WW	Hansen	1/96 - Facility inspected by FO 6. Negotiating before filing.
1-17-96	All-States Quality Foods, L.P.	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
1-18-96	Neola Light & Water	Admin. Order	WS	Hansen	Informal meeting held 3/4/96. Amended order with revised schedule to be issued.
1-19-96	Bill Shirbroun d/b/a Was Broken Pallet	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
1-22-96	Daryl Hollingsworth and Karen Hollingsworth d/b/a Medora Store	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
1-24-96	Jolly Roger Campground	Admin. Order/Penalty	WW	Clark	Negotiating before filing.

1-25-96	Hidden Valley Mobile Home Park	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
1-25-96	Markley Knock d/b/a Knock's Building Supply	Admin. Order/Penalty	AQ/SW	Kennedy	Phone conference with attorney regarding settlement - due 5/30/96.
1-30-96	Dean Williams d/b/a Williams Oil Co.	Admin. Order/Penalty	UT	Wornson	Compliance initiated.
1-31-96	Ben Haven Mobile Home Court	Admin. Order/Penalty	WS	Hansen	2/14/96 - letter to facility regarding status of appeal. As-built construction permit application under review. Letter regarding settlement 5/1/96.
2-06-96	Russell Stagg	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
2-12-96	Solid Waste Management Commission of Marshall County	Tonnage Fees	SW	Kennedy	Hearing set for 5/31/96.
2-13-96	Eastern Iowa Tire Recycling	Admin. Order/Penalty	WW/SW	Kennedy	Hearing set for 6/14/96. Working on consent order.
2-20-96	Center Point	Permit Conditions	WW	Hansen	2/96 - Settlement offer and revised permit sent.
3-04-96	Edward Bodensteiner	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
3-04-96	Ames, City of	Permit Conditions	WS	Hansen	Informal meetings held 3/22/96 and 3/28/96.
3-04-96	R.R. Donnelley Printing Co., L.P.	Permit Denial	AQ	Preziosi	Negotiating before filing.
3-05-96	Montgomery County	Open Burning Variance Denial	AQ	Preziosi	Negotiating before filing.
3-11-96	Dallas County Care Facility	Admin. Order/Penalty	WW	Hansen	Negotiating before filing.
3-11-96	Marlin Brenneman	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
3-14-96	Laurel, City of	Admin. Order	WW	Hansen	Information submitted by city under review by WQ section.
3-14-96	Lamoni, City of	Admin. Order	WW	Hansen	Negotiating before filing.
3-15-96	Hide-A-Way Mobile Home Park	Admin. Order/Penalty	WS	Hansen	Penalty rescinded 4/24/96. Closed.
3-19-96	Obie's West	Admin. Order	WS	Hansen	Under review by WS section.
3-22-96	Mt. Joy Mobile Home Park	Admin. Order/Penalty	WW	Hansen	3/25/96 Inspection by FO 6.

3-25-96	Case Corporation (Burlington)	Permit Conditions	WW	Hansen	4/29/96 Letter to facility regarding settlement. Revised permit sent.
3-26-96	Louisa-Muscatine Community School	Admin. Order/Penalty	WS	Hansen	Negotiating before filing.
3-26-96	Peggy S. Hansen (Geise Const.)	Water Use Permit	WR	Clark	New case.
4-01-96	Davenport Travel Plaza	Admin. Order/Penalty	WS	Clark	New case.
4-04-96	Richard Hocraffer (DeCoster Farms)	Water Use Permit	WR	Clark	New case.
4-11-96	Hach Company	Permit Denial	AQ	Preziosi	New case.
4-19-96	C & I Eggs	Admin. Order/Penalty	WW	Clark	New case.

Mr. McAllister presented the routine monthly reports.

Discussion followed regarding the American Asbestos Training Corp. and AMPC cases, and two Alter Trading Corp cases.

Mr. Murphy distributed copies of a status report from the City of Lenox.

Mr. McAllister noted that he sent the City of Lenox a letter on May 13, 1996 stating that the department is in agreement with taking a look at their use of an anerobic lagoon. He added that Lenox was told that without a cover on the anerobic lagoon there are separation distances that need to be met and they need to look at how they will satisfy that requirement.

INFORMATIONAL ONLY

PUBLIC PARTICIPATION

Chairperson King announced Public Participation at 10:35 a.m.; no one present requested to speak.

NONPOINT SOURCE POLLUTION CONTROL PROJECT CONTRACT, BMP PROMOTION IN NORTHEAST IOWA

Darrell McAllister, Bureau Chief, Water Quality Bureau, presented the following item.

Commission approval is requested for a \$46,975 contract with the Iowa State University Extension Service to promote the voluntary adoption of crop and livestock BMPs to protect surface and groundwater resources in a four county northeast Iowa area. The contract will allow

the continuation of the Northeast Iowa Demonstration and Sny Magill Hydrologic Unit Area Water Quality Project begun in 1992.

The contract funds will support a part-time Communications Specialist for the project. The duties of the specialist will be to accelerate voluntary adoption of BMPs through such means as bi-monthly project newsletters, multi-media campaigns (newsletters, radio and television) and improved project information and education materials. Funds from other programs are being used to support other aspects of the program such as cost sharing for BMP implementation.

The contract will be funded using EPA Section 319 nonpoint pollution control funds provided to the Department for this project and will be written for a twelve month period to begin upon DNR's receipt of the FY96 grant award from EPA.

Mr. McAllister reviewed details of the contract.

Brief discussion followed in regard to similarity between this project and the Big Springs project.

Motion was made by Gary Priebe to approve the Section 319 Nonpoint Source Pollution Control Project with ISU for BMP Promotion in NE Iowa. Seconded by Terrance Townsend. Motion carried unanimously.

APPROVED AS PRESENTED

SFY 97 WATER SUPPLY FEE

Darrell McAllister, Bureau Chief, Water Quality Bureau, presented the following item.

At the March, 1996 Commission meeting the Department presented several alternatives for handling the problem of "double charging". That is, when one public water supply is located within the boundaries of another water supply, the larger water supply may have a fee assessed for the population served by both water supplies. The operation fee is based on the census population.

It was agreed at the March meeting that the Department would resolve this problem administratively by taking into account the systems that are affected by double charging, recalculate the per capita fee, advise the water supplies of per capita fee changes and hold a public hearing.

The Department has identified the public water supplies that are affected and has determined that the per capita fee of \$0.14 per person does not need to be changed for fiscal year 1997. Population figures for FY 1997 are based on official census corrections provided by the Office of the Iowa Secretary of State dated December 26, 1995.

Based on current populations, 1,914 Public Water Supplies, fees of \$25 for transient public water supplies, a minimum fee of \$25 and the per capita fee of \$0.14, the Department calculates the fees will amount to \$347,672. The target amount is \$350,000.

Since the per capita fee will remain unchanged in FY 1997, the Department will not be holding a public hearing.

Mr. McAllister reviewed the item addressing the issue dealing with double charging. He noted that following all calculations the department felt it should stay with the \$0.14 per capita fee.

Charlotte Mohr asked if the increase in populations would have any affect on this and if a more current census should be used.

Mr. McAllister related that the census did not change that much, and that there may be populations not using a public water supply that would not be brought into the fee structure.

INFORMATIONAL ONLY

PROPOSED RULE--CHAPTER 65, 68, AND 121, NAVIGABLE WATERS AND MANURE APPLICATION

Darrell McAllister, Bureau Chief, Water Quality Bureau, presented the following item.

The Commission will be presented with a draft NOIA which would initiate rulemaking to:

- Amend Table 1, Navigable Rivers and Streams, and Table 2, Navigable Lakes, of Chapter 65, Animal Feeding Operations, to designate additional rivers, streams and lakes as navigable waters subject to separation distances for animal feeding operation structures. The Commission previously adopted a partial list of navigable rivers, streams and lakes with the understanding that the lists were not a comprehensive list of waters meeting the navigability test of HF 519. The Department's staff was directed to prepare a more comprehensive list for the Commission's consideration and the proposed amendments represent the results of that effort. Input was solicited from all county conservation boards as well as the Department's Fish and Wildlife Division in the preparation of the proposed additions.
- Amend the references to "Guidelines of Iowa Water Quality Commission on Land Disposal of Animal Wastes" contained in Chapter 68, Commercial Septic Tank Cleaners, and Chapter 121, Land Application of Wastes, to reflect the manure disposal requirements of Chapter 65, Animal Feeding Operations. Land application of animal wastes is now covered by Chapter 65 rules rather than the referenced Guidelines and the proposed amendments would simply be technical corrections to reflect this. No changes to the actual manure disposal/management provisions of Chapter 65 are being proposed.

Mr. McAllister distributed copies of the proposed rule listing rivers, lakes and streams to be added as navigable waters and explained same.

Discussion followed regarding how affected parties will be notified of these changes.

Commissioners Mohr and Priebe indicated they thought drainage ditches were off limits and noted there is one listed under Item 3.

Mr. McAllister stated that staff will look into it. He explained that the definition of a navigable stream is one that can support a vessel carrying one or more persons during a total of six month period, in one out of ten years (excluding periods of flooding).

Gary Priebe asked what Item 5 will actually change.

Mr. McAllister stated that it will let people know they have to follow the requirements rather than the guidelines in Chapter 65.

INFORMATIONAL ONLY

PROPOSED RULE--CHAPTER 53, PROTECTED WATER SOURCES

Darrell McAllister, Bureau Chief, Water Quality Bureau, presented the following item.

The Commission will be provided a proposed amendment to Chapter 53. The amendment is intended to designate the area surrounding the former Ralston industrial disposal site in Cedar Rapids as a protected water source. This designation (the first of its kind) will enable the Department to restrict or deny withdrawal of groundwater within the designated area. The restriction will allow the Department to see if withdrawals will be impacted by contamination from the Ralston site or cause an expansion in the area of groundwater contamination.

Rockwell International, Inc., the party responsible for the Ralston site, has petitioned the department for this designation. Rockwell is in the process of completing extensive cleanup actions at the Ralston site. Some residual groundwater contamination is anticipated despite these efforts.

The potential loss of water resources resulting from this proposed designation is considered to be minor. The entire area is serviced by municipal water supplies. The Cedar Rapids and Marion water supplies and the Linn County Health Department have been appraised of this proposal.

Mr. McAllister gave a detailed explanation of the proposed rules. He noted that staff met with various city officials near Cedar Rapids and no one had any objections to this designation. He related that the department will work with Linn County to modify the agreement with them so they will check to be sure any permits they issue will not be impacted by the contaminated area.

Discussion followed regarding the make up of the area involved, how long the ban will be in effect, and groundwater contamination at the Ralston site.

INFORMATIONAL ONLY

FINAL RULE--CHAPTER 65 (TERMINATE RULE), MANURE MANAGEMENT PLANS FOR EXPANDED ANIMAL FEEDING OPERATIONS

Darrell McAllister, Bureau Chief, Water Quality Bureau, presented the following item.

The Commission is requested to terminate rulemaking on the proposed amendment to 567-65.18(1) regarding manure management plans (MMPs) for confinement feeding operations with formed manure storage structures not requiring a construction permit. The amendment was proposed to make the MMP requirements for expanded confinement feeding operations the same as for new confinement operations of a similar size. The amendment would also have eliminated a potential loophole which livestock producers could use to avoid manure management plan requirements.

The current rule requires that a manure management plan be developed and provided to the Department for new (i.e., first occupied after 9/22/95) facilities with an animal weight capacity of greater than 200,000 pounds but less than the construction permit threshold. However, an existing operation that expands to a size that exceeds 200,000 pounds but does not require a construction permit does not have to develop and submit a MMP. The rule amendment proposed would have corrected this inequity by requiring such expanded operations to develop and file a MMP.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 14, 1996. Two public hearings were held and comments were accepted through March 6, 1996. Only four comments were received during the public comment period, with all comments opposed to the proposed rule amendment. Based on an evaluation of the comments received as well as other information, the Department has determined that insufficient justification exists at this time to proceed with adoption and implementation of the proposed rule amendments. In particular it was determined that:

- there is little apparent public support for the proposed amendments, as evidenced by the small number of comments received with all being in opposition;
- there is no evidence that expanded operations of this size have created significant pollution problems in the past; and
- adoption and implementation of the amendments at this time would create an additional work load for Department staff, detracting from the effort needed to review permit applications for the larger and potentially more environmentally damaging operations.

Existing operations that expand to a size that exceeds current permit thresholds would, of course, be required obtain a permit and to develop MMP as part of their permit application. And all operations, regardless of size, are subject to the requirements of 567-65.2, Minimum manure control requirements and guidelines.

Mr. McAllister reviewed the rules in detail.

Motion was made by Charlotte Mohr to approve termination of Final Rule--Chapter 65, Manure Management Plans for Expanded Animal Feeding Operations. Seconded by William Ehm.

Gary Priebe inquired as to the effects of this rule.

Mr. McAllister explained that if existing facilities expand to exceed 200,000 pounds and are using formed manure storage tanks they do not need a construction permit. He added that the rule that was proposed would have required them to have a manure management plan (MMP), and this recommends that they not be required to have a MMP. He related that if an existing facility needs a construction permit they would have to have a MMP. Mr. McAllister indicated that a new facility (after 9/22/95) with greater than 200,000 pounds, and not needing a construction permit, would still need to have a MMP.

Gary Priebe stated that he does not agree because, as he understands it, it would allow a facility to put up to 600,000 pounds of hogs in an area the size of a city block and not have to have a MMP. He related that the Commission thought they did the right thing six months ago and now this will undo it all.

Charlotte Mohr commented that the emergency rules adopted last fall did not intend to impact the small farmers or those already in operation that did not need a MMP. She noted that two public hearings were held on this rule amendment and there were very few comments received.

Gary Priebe explained that a person with a ten sow unit, with a concrete manure pit, could expand up to 4,000 hogs and not have to have a MMP, all on five acres. He added that is the reason he is having a problem with the rules.

Don Paulin, Deputy Director, stated that is the reason the rule was initiated to begin with.

William Ehm commented that he feels someone who is already feeding hogs should be able to continue the operation they have been involved in for years. He asked what constitutes who has been in business, noting that an individual may have stopped feeding hogs for a year and then decided to get back into the business, would that constitute somebody new or would it be considered an existing facility. He inquired as to where the grandfather clause begins and ends.

Chairperson King suggested that Don Paulin visit with Ubbo Agena regarding these concerns, and the Commission delay the item until Mr. Paulin can bring back answers later in the meeting.

ITEM DELAYED UNTIL LATER IN THE MEETING
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FINAL RULE--CHAPTER 61, WATER QUALITY STANDARDS STREAM USE DESIGNATIONS

Darrell McAllister, Bureau Chief, Water Quality Bureau, presented the following item.

Commission approval is requested of the attached Final Rule adopting Class B stream use designations for 32 stream segments, modifying the use classification for one stream segment, and designating another stream segment as a high quality resource (HQR) water. The final rule would also establish protected flows for 9 of those stream segments by revising the publication date of the rule-reference document "Iowa Water Quality Standards: Protected Flows for Selected Stream Segments". A copy of the revisions to that document is attached.

Also attached is the Public Participation Responsiveness Summary summarizing and responding to comments received during the public comment period. Comments were received from five persons and all comments dealt with Class A (primary body contact) use designations or the impacts of classifying a waterbody as a Class A water. Four persons objected to the proposed Class A use classification for the upper Des Moines River or the associated requirements for disinfection of sewage treatment plant effluent while one person asked that an additional waterbody be designated as a Class A water.

The only recommended change from the published NOIA is the elimination of the proposed Class A use designation for the upper portion of the Des Moines River. Any additional Class A use classification and assessment work would be done at a later date when all streams, rivers and lakes are assessed to determine if those waters support primary body contact recreation.

**ENVIRONMENTAL PROTECTION COMMISSION [567]
Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission amends Chapter 61, "Water Quality Standards," Iowa Administrative Code.

The amendments as adopted by the Environmental Protection Commission on May 20, 1996 establish designated uses for various water bodies for the purpose of applying existing surface water quality criteria and revise the publication date on a rule referenced document, "Iowa Water Quality Standards: Protected Flows For Selected Stream Segments."

Notice of Intended Action was published in the March 13, 1996, Iowa Administrative Bulletin as ARC 6322A. Four public hearings were held with notice of the hearings being sent to nine cities and industries whose wastewater treatment facilities could be affected by the amendments, to interest groups, and to statewide news network organizations. Five comments were received during the public comment period. A responsiveness summary has been prepared addressing those comments.

The only change made to the amendments as published in the Notice of Intended Action was the elimination of the proposed Class A (primary body contact recreation) use designation for the Des Moines River from the Humboldt Dam to the north state line. Comments received questioned whether the upper Des Moines presently supports or could support Class A uses such as swimming. The Commission feels that a more detailed use assessment is needed to determine the appropriateness of the Class A use designation for this stream segment and has therefore eliminated the proposed Class A designation from these rule amendments.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1 and will become effective on July 24, 1996.

The following amendments are adopted.

ITEM 1. Subrule 61.2(5), first unnumbered paragraph, is amended to reflect the revised date for the rule referenced document as follows:

The minimum flows, commonly termed protected flows, are presented in "Iowa Water Quality Standards: Protected Flows For Selected Stream Segments," dated ~~February 1, 1995~~ April 1, 1996. A copy of this document is available upon request from the department. A copy is also on file with the Iowa Administrative Rules Coordinator.

ITEM 2. Paragraph 61.3(5)"e" is amended by inserting the following in its natural sequence or hydrological order:

e.

WESTERN IOWA RIVER BASINS

Western Iowa River Basins (Missouri, Big Sioux, and Little Sioux Rivers)

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Western Iowa River Basins. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Boyer R. - 2	Maple R. - 4	West Fork Little Sioux R - 7
Boyer R. - 1	Maple R. - 5	
Little Sioux R. - 3	Monona Harrison Co. Ditch - 6	

WESTERN MAJOR RIVER - MISSOURI R. AND ITS TRIBUTARIES BOYER R. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Boyer R.								
1. Confluence with East Boyer R. (Crawford Co.) to confluence with an unnamed tributary (S1/2, S33, T88N, R37W, Sac Co.)		X						
Boyer R.								
2. Confluence with an unnamed tributary (S33, T88N, R37W, Sac Co.) to confluence with an unnamed tributary (SE1/4, SW1/4, S5, T89N, R37W, Sac Co.)			X					

WESTERN MAJOR RIVER - MISSOURI R. AND ITS TRIBUTARIES MONONA-HARRISON DITCH AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR

LITTLE SIOUX R. AND ITS TRIBUTARIES

Little Sioux R.

- | | | | | | | | | |
|----|--|---|---|--|--|--|--|--|
| 3. | West Line, S17, T96N, R36W, Clay Co. to confluence with West Fork Little Sioux River (Dickinson co.) | X | | | | | | |
| 4. | Maple R. Mouth (S17, T83N, R44W, Monona Co.) to confluence with Silver Cr. (S13, T88N, R40W, Ida Co.) | X | | | | | | |
| 5. | Maple R. Confluence with Silver Cr. (S13, T88N, R40W, Ida Co.) to confluence with Maple Cr. (S5, T91N, R39W, Cherokee Co.) | | X | | | | | |

MONONA-HARRISON DITCH AND ITS TRIBUTARIES

Monona Harrison Co. Ditch

- | | | | | | | | | |
|----|--|---|---|--|--|--|--|--|
| 6. | Mouth (S21, T81N, R45W, Harrison Co.) to confluence with W. Fk. L. Sioux River (Ditch) (S12, T84N, R45W, Monona Co.) | X | | | | | | |
| 7. | West Fork Little Sioux R. Mouth (S12, T84N, R45W, Monona Co.) to confluence with an unnamed tributary (S3, T91N, R42W, Cherokee Co.) | | X | | | | | |

SOUTHERN IOWA RIVER BASINS

The stream segment named below is referenced within the Water Use Designations for the Southern Iowa River Basins.

SOUTHERN

MAJOR RIVER - CHARITON R. AND ITS TRIBUTARIES

HONEY CR. AND ITS TRIBUTARIES

- | | A | B(WW) | B(LR) | B(LW) | B(CW) | C | HQ | HQR |
|--|---|-------|-------|-------|-------|---|----|-----|
| 1. Honey Cr. Mouth (S26, T71N, R20W, Lucas Co.) to confluence with an unnamed tributary (S10, T71N, R20W, Lucas Co.) | | | X | | | | | |

DES MOINES RIVER BASIN

Des Moines River Basin (Lower Des Moines River, Upper Des Moines River, East Fork Des Moines River, Blue Earth River, and Raccoon River Subbasins).

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Des Moines River Basin. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Boone R. - 2
Boone R. - 3

Des Moines R. - 1
Old Channel - Des Moines - 4

DES MOINES

MAJOR RIVER - UPPER DES MOINES R. AND ITS TRIBUTARIES
DES MOINES R. AND ITS TRIBUTARIES

- | | A | B(WW) | B(LR) | B(LW) | B(CW) | C | HQ | HQR |
|---|---|-------|-------|-------|-------|---|----|-----|
| 1. Des Moines R. Humboldt Dam (Humboldt Co.) to state line | | X | | | | | | |
| 2. Boone R. Otter Creek (Wright Co.) to confluence with Middle Branch Boone R. (Wright Co.) | | X | | | | | | |

Boone R.								
3.	Confluence with Middle Branch Boone R. (Wright Co.) to confluence with Drainage Ditch No. 10 (S29, T95N, R26W, Hancock Co.)		X					
OLD CHANNEL - DES MOINES R. AND ITS TRIBUTARIES								
Old Channel Des Moines R.								
4.	Mouth (S26, T95N, R32W, Palo Alto Co.) to confluence with Ditch No. 41 (S29, T95N, R32W, Palo Alto Co.)	X						

SKUNK RIVER BASIN

The stream segment named below is referenced within the Water Use Designations for the Skunk River Basin.

		A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
SKUNK MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES									
SKUNK R. AND ITS TRIBUTARIES									
Rock Cr.									
1.	Mouth (S34, T72N, R11W, Jefferson Co.) to confluence with an unnamed tributary (NE1/4, S5, T71N, R11W, Jefferson Co.)			X					

IOWA-CEDAR RIVER BASIN

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Iowa-Cedar River Basin. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Linn Cr. - 4 South Fork Iowa River - 6 Winnebago R. - 2
 South Fork Iowa River - 5 W. Fk. Cedar R. - 1 Winnebago R. - 3

		A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
IOWA-CEDAR MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES									
CEDAR R. AND ITS TRIBUTARIES									
W. Fk. Cedar R.									
1.	Confluence with Maynes Cr. (Butler Co.) to juncture of Beaverdam and Bailey Creeks (Franklin Co.)		X						
Winnebago R.									
2.	Upper extent of Mill Pond at Fertile to confluence with Pike Run (S25, T99N, R24W, Winnebago Co.)		X						
Winnebago R.									
3.	Confluence with Pike Run (S25, T99N, R24W, Winnebago Co.) to state line			X					
IOWA R. ABOVE CEDAR R. AND ITS TRIBUTARIES									
Linn Cr.									
4.	Mouth (S30, T84N, R17W, Marshall Co.) to confluence with an unnamed tributary (W1/2, NE 1/4, S5, T83N, R19W, Marshall Co.)			X					
South Fork Iowa River									
5.	Mouth (S4, T86N, R19W, Hardin Co.) to confluence with an unnamed tributary (W1/2, S19, T88N, R21W, Hardin Co.)		X						
South Fork Iowa River									
6.	Confluence with an unnamed tributary (W1/2, S19, T88N, R21W, Hardin Co.) to confluence with an unnamed tributary (S11, T88N, R22W,			X					

Hardin Co.)

NORTHEASTERN IOWA RIVER BASINS

Northeastern Iowa River Basins (Wapsipinicon River, Maquoketa River, North Fork Maquoketa River, Turkey River, Volga River, Yellow River, and Upper Iowa River Subbasins).

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Northeastern Iowa River Basins. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Buffalo Cr. - 3	Turkey R. - 7	Upper Iowa R. - 11
Buffalo Cr. - 4	Turkey R. - 8	Upper Iowa R. - 12
Crane Cr. - 5	Turkey R. - 9	Wapsipinicon R. - 1
Crane Cr. - 6	Upper Iowa R. - 10	Wapsipinicon R. - 2

NORTHEASTERN MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES WAPSIPINICON R. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Wapsipinicon R.								
1. Confluence with Little Wapsipinicon R. (Chickasaw Co.) to confluence with Watsons Cr. (S25, T99N, R15W, Mitchell Co.)		X						
Wapsipinicon R.								
2. Confluence with Watsons Cr. (S25, T99N, R15W, Mitchell Co.) to town of McIntire.			X					
Buffalo Cr.								
3. Upper extent of Coggon Impoundment to confluence with an unnamed tributary (N1/2, S27, T88N, R7W, Buchanan Co.)		X						
Buffalo Cr.								
4. Confluence with an unnamed tributary (N1/2, S27, T88N, R7W, Buchanan Co.) to confluence with an unnamed tributary (S6, T88N, R7W, Buchanan Co.)			X					
Crane Cr.								
5. Mouth (S31, T95N, R9W, Fayette Co.) to confluence with Spring Cr. (S17, T97N, R12W, Howard Co.)		X						
Crane Cr.								
6. Confluence with Spring Cr. (S17, T97N, R12W, Howard Co.) to confluence with an unnamed tributary (S7, T99N, R13W, Howard Co.)			X					
TURKEY R. AND ITS TRIBUTARIES								
Turkey R.								
7. Confluence with Bohemian Cr. (Winneshiek Co.) to Vernon Springs (road crossing S34, T99N, R11W, Howard Co.)		X					X	
Turkey R.								
8. Vernon Springs (road crossing, S34, T99N, R11W, Howard Co.) to confluence with North Branch Turkey R. (S31, T99N, R11W, Howard Co.)		X						
Turkey R.								
9. Confluence with North Branch Turkey R. to confluence with South Branch Turkey R. (S2, T98N, R12W, Howard Co.)			X					
UPPER IOWA R. AND ITS TRIBUTARIES								

10.	Upper Iowa R. Confluence with Silver Cr. (Winneshiek Co.) to Winneshiek-Howard County line	X	X							X
11.	Upper Iowa R. Winneshiek-Howard Co. line to river mile 86 (NE1/4, S12, T100N, R13W, Howard Co.)		X							X
12.	Upper Iowa R. River mile 86 (NE1/4, S12, T100N, R13W, Howard Co.) to state line (S11, T100N, R14W, Howard Co.)		X							

Item 3. Paragraph 61.3(5)“e” is amended to modify the stream use designation of Brushy Creek as follows:

DES MOINES RIVER BASIN	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Brushy Cr. Mouth (Guthrie Co.) to the <u>Guthrie/Audubon Co. line confluence</u> <u>with an unnamed tributary (S6, T82N, R34W,</u> <u>Carroll Co.).</u>		*	X					

(A copy of the Responsiveness Summary is on file in the department's Records Center)

Mr. McAllister reviewed the rule in detail.

Chairperson King asked if there is a deadline for additional Class A use classification and assessment work.

Mr. McAllister stated that staff are trying to get to those streams this summer and fall, adding that there has been some delay because of high flows recently.

Chairperson King asked if Thiry Lake is in this list of streams.

Mr. McAllister responded that it is not included noting that there is a request for it to be designated as Class A, but it is in the public comment period.

Motion was made by William Ehm to approve Final Rule--Chapter 61, Water Quality Standards Stream Use Designations. Seconded by Gary Priebe. Motion carried unanimously.

APPROVED AS PRESENTED

TITLE V AIR QUALITY OPERATING PERMIT FEE

Pete Hamlin, Bureau Chief, Air Quality Bureau, presented the following item.

The Commission will be asked to approve a final fee for State Fiscal Year 1997 Title V Air Quality Operating permits. Since the beginning of the program the fee has been set at \$24,00 per ton of regulated pollutant up to a 4,000 ton per pollutant cap. Permit fees had been collected and payable coinciding with the federal fiscal year (October 1 - September 30), however, through recent regulatory changes the Department has changed to collect fees due and payable for 1997 coinciding with the state fiscal year (July 1, 1996 - June 30, 1997). The Department collected only half of the 1996 (\$12.00) fees last fall. Because of the change in budget period and recognizing that 1997 fees will now be due and payable on July 1, 1996, there is no need to collect the second half (\$12.00) of the 1996 fees.

The Commission will be asked to approve a final budget of \$6,954,529 for state fiscal year 1997. Of this amount \$5,016,413 is to be derived from Title V permit fees. Based on 226,987 tons of pollutants a fee of \$22.10 would be needed to generate this amount. The Commission will be asked to approve a fee of \$22.10 for state fiscal year 1997.

1997 Air Quality Budget

	SFY 97 Budget	notes
<u>Air Quality Cost Center</u>		
Personnel	890,339	¹
Travel in state	4,500	
Travel out of state	45,000	
Univ. of Iowa Hygienic Lab. Agmt	233,912	
Office supplies	6,000	
Facility maintenance	770	
Equipment maintenance	2,400	
Other supplies	5,184	
Printing and binding	20,441	
Communications	27,000	
Utilities	5,044	
Professional services	12,000	
Outside services	36,200	
Advertisement in publications	326	
Data processing	12,000	
Reimbursement to other agencies	4,000	
Indirect charges	109,512	
	1,414,628	
	SFY 97 Budget	notes
<u>Air Quality Field Cost Center</u>		
Personnel	426,345	²

Travel in state	12,000
Travel out of state	15,000
3 new vehicles	48,000
Office supplies	2,400
Printing and binding	500
Uniforms	1,000
Communications	12,000
Data processing	10,000
Reimbursement to other agencies	3,200
Computer purchase	96,000
Equipment	14,100
Indirect charges	52,440
	<hr/> 692,985

**SFY 97
Budget**

notes

Air Toxics Cost Center

Personnel	1,326,653 ³
Travel in state	7,000
Travel out of state	87,500
Office supplies	55,000
Facility maintenance supplies	1,800
Equipment maintenance	2,200
Other supplies	2,200
Printing and binding	65,000
Uniforms	2,000
Communications	48,000
Utilities	2,400
Outside services	6,100
Advertisement in publications	2,200
Data processing	20,000
Reimbursement to other agencies	6,200
Equipment	160,000
Univ. of Iowa Hygienic Lab (Stack Testing)	212,560
Contract for 3-day PSD course	25,000
Polk County local program agreement	465,320
Linn County local program agreement	222,000
UNI small business assistance agr	310,000
State Ombudsman agreement	74,500
Contracts for Permit Reviews	515,000
Interagency Agr with Prison Industries	96,600
Data Management System Contract	296,800

EDI Contract	170,000
Computer purchase	112,000
FAX Back Information transfer	12,000
GPS - GIS base & 2 field units	27,850
Office equipment & furniture	20,055
Air monitoring equipment	90,000
Other expenses	6,000
Rental	198,000
Transportation (2 vehicles +costs)	35,800
Indirect charges	163,178
	<hr/>
	4,846,916

SFY 97**Budget****REVENUES**

Balance Forward	488,733	notes Estimate
General Fund Appropriation	430,000	
Title V fees *	5,016,413	Estimate
Fund interest	200,000	Estimate
Federal 105 air grant	821,056	Estimate
	<hr/>	
Total Revenues	6,956,202	

EXPENDITURES

Air quality cost center	1,414,628
Air quality field cost center	692,985
Air toxics cost center	4,846,916
Total Expenditures	6,954,529

Balance to Forward to next year	1,672
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¹ Staffing Air Quality Cost Center

1996: 1 Clerk, 1 DE, 1 PSE, 1 EPS, 7 ES, 7 EE (18)

1997: 1 Clerk, 1 DE, 1 PSE, 1 EPS, 7 ES, 7 EE (18)

² Staffing Field Office Cost Center

1996: 0.25 PSE, 0.25 PP, 6 ES (6.5)

1997: 0.25 PSE, 0.25 PP, 9 ES (9.5)

³ Staffing Air Toxics Cost Center

1996: 1 EPS, 1 Attny, 1 AA, 15 ES, 7 EE, 1 Sys Anal, 1 Sr Sys Prg, 1 DPS (28)

1997: 2 EPS, 2 Attny, 1 AA, 20 ES, 7 EE, 1 Sys Anal, 1 Sr Sys Prg, 1 DPS (35)

- * 1995 budget based on total tonnage of 227,118
- 1996 budget based on total tonnage of 201,600
- 1997 budget tonnage est @226,987 @ \$22.10/ton**

Mr. McAllister reviewed the agenda item noting that staff is asking for approval of the final fee for SFY 97, and approval of the final budget for SFY 97.

A lengthy discussion took place regarding various budget items/costs; variation in tonnage for 95-96-97; time frame on installation of scanning equipment; the Air Quality Bureau move to new quarters; and expenses for staff training.

Motion was made by Charlotte Mohr to approve the Title V Air Quality Operating Permit Fee of \$22.10/ton for SFY 97 and the Final Budget for SFY 97 as presented. Seconded by Gary Priebe. Motion carried unanimously.

APPROVED AS PRESENTED

Director Wilson explained that the \$430,000 general fund appropriation on page 3 of the budget was a transfer from the Hazardous Substance Remedial Fund. He related that when the department goes to the legislature with the FY 98 Budget there will be a need to look at some other general fund source rather than another transfer.

FINAL RULE--CHAPTER 22, DEFERRAL OF TITLE V FEE PAYMENT FOR DEFERRED STATIONARY SOURCES

Pete Hamlin, Bureau Chief, Air Quality Bureau, presented the following item.

The Commission will be asked to adopt as final rules amendments clarifying that sources presently deferred from the requirement to obtain a Title V permit (sources which are neither a major source, nor an affected (acid rain) source, nor a solid waste incineration unit required to obtain a permit pursuant to section 129(e) of the Act) are not required to pay the Title V fee until such time as the deferral expires. The deferral expires April 20, 1999.

ENVIRONMENTAL PROTECTION PROTECTION COMMISSION [567] Final and Adopted

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, "Controlling Pollution," Iowa Administrative Code.

The requirement to obtain a Title V operating permit is currently deferred for all sources otherwise required to obtain a permit that are neither major sources, nor acid rain affected sources, nor solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, until April 20, 1999 (five years from the effective date of rule 22.101(455B)). Therefore, this amendment proposes to exempt these sources from the requirement to pay the Title V permit fee until such time as these sources are required to apply for Title V permits.

A Notice of Intended Action proposing this amendment was published in the Iowa Administrative Bulletin on March 13, 1996, as ARC 6321A. A public hearing was held on April 15, 1996. No oral or written comments were received. No changes were made from the Notice of Intended Action.

This amendment may impact small business.

This amendment is intended to implement Iowa Code section 455B.133.

The following amendment is adopted.

ITEM 1. Amend rule 22.106(455B) by adding the following new subrule:

22.106(6) Title V deferred stationary sources. No fee shall be required to be paid for emissions until the year which sources deferred under subrule 22.101(2) are required to apply for a Title V permit. Fees shall be paid for the emission year preceding the year in which the application is due and thereafter.

Pete Hamlin reviewed details of the item. He noted that this is basically a clarification that the fee will be deferred for five years.

Brief discussion followed.

Motion was made by William Ehm to approve Final Rule--Chapter 22, Deferral of Title V Fee Payment for Deferred Stationary Sources. Seconded by Terrance Townsend. Motion carried unanimously.

APPROVED AS PRESENTED

STATE IMPLEMENTATION PLAN AMENDMENT FOR MUSCATINE NONATTAINMENT AREA

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Commission will be asked to approve an amendment to the State Implementation Plan (SIP). The Department has established this plan to attain and maintain the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO₂) in the Muscatine County nonattainment area. The plan includes: (1) Federally enforceable permits for Muscatine Power and Water and

Grain Processing Corporation establishing limitations on emissions of SO₂ sufficient to ensure the establishment and maintenance of conditions necessary to prevent additional exceedences of the NAAQS; (2) A Consent order with Monsanto and subsequently issued federally enforceable permits; and (3) Revisions to Chapter 22, "Controlling Pollution," making the Department's new source review rules regarding SO₂ nonattainment areas conform with required elements of the Clean Air Act Amendments of 1990 (approved by the Commission January 15, 1996).

The U.S. Environmental Protection Agency (EPA) requires states to submit a SIP to meet and maintain the NAAQS as a first step toward redesignation of nonattainment areas to attainment. The plan meets requirements established in § 110(a)(2) and part D of the federal Clean Air Act. The Department will, at the time of submission of this SIP, request redesignation of the Muscatine area to attainment.

Mr. Murphy stated that as a result of the nonattainment status in Muscatine the department has taken a number of actions in cooperation with the facilities in that area. He related that the State Implementation Plan (SIP) with EPA needs to be amended. He distributed a packet of materials to each Commissioner showing actions the state has taken in response to the nonattainment designation. He noted that staff is asking the Commission's approval to submit the plan to EPA.

Terrance Townsend asked why the packet of materials was not sent to the Commissioners prior to the meeting.

Charlotte Mohr agreed that she would appreciate having received the packet a little earlier, due to the length of it.

Pete Hamlin stated that a staff person had been working full time on it and it was just recently completed. He indicated that the department and the people in Muscatine would like to get it moving as quickly as possible.

Mr. Murphy indicated that it is not a controversial issue among the parties and there is agreement between the affected parties.

Terrance Townsend reiterated that he does not like being in a position of having something handed out and having to act on it immediately.

Director Wilson stated that he will visit with Al Stokes about distributing the information earlier.

Pete Hamlin reiterated that the involved parties would like to get it moving.

Motion was made by Charlotte Mohr to approve the State Implementation Plan for Muscatine Nonattainment Area. Seconded by Gary Priebe. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION--CHAPTER 23, OPEN BURNING

Darrell McAllister, Bureau Chief, Water Quality Bureau, presented the following item.

The Commission will be asked to approve the attached Notice of Intended Action to amend Chapter 23, "Emission Standards for Contaminants," 567 Iowa Administrative Code.

The purpose of this rulemaking is to make consistent the provisions of two of the exemptions to the Department's rule prohibiting open burning. Both 567 I.A.C. 23.2(3)"b" and 567 I.A.C. 23.2(3)"i" prohibit the use of an exemption where the burn site is located within one-fourth mile of the inhabited structures specified in the subrule, but paragraph 23.2(3)"i" allows the owners of the inhabited buildings within one-fourth mile of the burn site to waive their rights under the rule by submitting a written affidavit to the Department prior to the open burning. This amendment to paragraph 23.2(3)"b" would change the rule to allow that owners of inhabited buildings within one-fourth mile of a burn site falling within the provisions of paragraph 23.2(3)"b" also could waive their rights through a one-time written affidavit submitted to the Department.

There has been a change to this rulemaking since the draft was presented for information in April 1996. The proposed rule has been changed to require that only one affidavit be filed for each affected inhabited building. This change would reduce the burden on the building owner. The proposed rule also would now require that the written waiver be recorded with the deed for the affected inhabited building, providing notice to potential buyers of that property.

**ENVIRONMENTAL PROTECTION COMMISSION[567]
Notice of Intended Action**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 23, "Emission Standards for Contaminants."

The purpose of these amendments is to make consistent the provisions of two of the exemptions to the Department's rule prohibiting open burning. Both 567 I.A.C. 23.2(3)"b" and 567 I.A.C. 23.2(3)"i" prohibit the use of an exemption where the burn site is located within one-fourth mile of the inhabited structures specified in the subrule, but paragraph 23.2(3)"i" allows the owners of the inhabited buildings within one-fourth mile of the burn site to waive their rights under the rule by submitting a written affidavit to the Department prior to the open burning. This amendment to paragraph 23.2(3)"b" would change the rule to allow that owners of inhabited buildings within one-fourth mile of a burn site falling within the provisions of paragraph 23.2(3)"b" also could waive their rights through a one-time written affidavit submitted to the Department.

Any person may make written suggestions or comments regarding the proposed amendments on or before _____. Written comments should be directed to Anne Preziosi, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50309-0034, fax 515-281-8895.

A public hearing will be held on _____, at _____ in _____ at which time comments may be submitted orally or in writing. Any persons who intend to attend a public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department of Natural Resources to advise the Department of those specific needs.

These amendments may impact small businesses.

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1 Amend the first paragraph of paragraph 23.2(3)"b" as follows:

b. Trees and tree trimmings. The open burning of trees and tree trimmings not originated on the premises provided that the burning site is operated by a local governmental entity, the burning site is fenced and access is controlled, burning is conducted on a regularly scheduled basis and is supervised at all times, burning is conducted only when weather conditions are favorable with respect to surrounding property, and the burning site is limited to areas at least one-quarter mile from any inhabited building unless a written waiver in the form of an affidavit is submitted by the owner of the building to the department and to the local governmental entity prior to the first instance of open burning at the site which occurs after the effective date of this rule. The written waiver shall become effective only upon recording in the office of the recorder of deeds of the county in which the inhabited building is located. However, when the open burning of trees and tree trimmings causes air pollution as defined in Iowa Code section 455B.131(3), the department may take appropriate action to secure relocation of the burning operation. Rubber tires shall not be used to ignite trees and tree trimmings.

Mr. McAllister reviewed the rules noting changes made from the proposed rule.

Motion was made by Terrance Townsend to approve Notice of Intended Action--Chapter 23, Open Burning. Seconded by Gary Priebe. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION--CHAPTER 103, SANITARY LANDFILLS

Darrell McAllister, Bureau Chief, Water Quality Bureau, presented the following item.

The Commission will be asked to approve the attached proposed rule amendment which will require the installation of liners and caps on municipal solid waste landfills that are equivalent to the requirements of the federal EPA Subtitle D regulations. The proposed amendment will satisfy the requirements in order for the state of Iowa to become an approved state under the federal Resource Conservation and Recovery Act (RCRA) Subtitle D program (40 CFR 257 & 258 Solid Waste Disposal Facility Criteria).

**ENVIRONMENTAL PROTECTION COMMISSION [567]
Notice of Intended Action**

Pursuant to the authority of Iowa Code section 455B.304 the Environmental Protection Commission hereby gives Notice of Intended Action to adopt amendments to Chapter 103, "Sanitary Landfills."

These proposed rules establish regulations which are necessary in order for the State of Iowa to be an approved state under the auspices of the federal EPA Resource Conservation and Recovery Act (RCRA) Subtitle D program (40 CFR Part 258). In order to become an approved state it is necessary to amend Chapter 103 to require the installation of liners and caps on municipal solid waste landfills that are equivalent to the requirements of the federal Subtitle D regulations.

It is desirable for the State of Iowa to be an approved state so that: 1) municipal solid waste landfills in Iowa would have to meet only one set of regulations (state regulations) instead of both state and federal regulations; and (2) the municipal solid waste landfills in Iowa would have more flexibility for their operations to comply with the regulations. Subtitle D regulations provide for more flexibility if a state is an approved state.

Any interested person may make written suggestions or comments on the proposed amendments on or before July 19, 1996. Written comments should be directed to Lavoy Haage, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa 50319-0034, fax (515)281-8895.

A public hearing will be held on July 9, 1996, at 1:00 p.m. in the Fourth Floor Conference Room of the Wallace State Office Building, E 9th and Grand Ave., Des Moines, Iowa, at which time comments may be presented orally or submitted in writing.

Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and advise of special needs.

These amendments may impact small businesses.

These amendments are intended to implement Iowa Code section 455B.304.

The following amendments are proposed.

ITEM 1. Amend subrule 103.2(1) paragraph "d," as follows:

d. A liner system that meets the following requirements, depending upon the type of waste material disposed:

(1) Municipal solid waste landfills (MSWLFs) shall have a composite liner system consisting of two components. The upper component must consist of a minimum 30-mil flexible membrane liner (FML), and the lower component must consist of at least a two foot layer of compacted soil as specified in sub paragraph 103.2(1)d(2). FML components consisting of high density polyethylene (HDPE) shall be at least 60-mil thick. The FML must be installed in direct and uniform contact with the compacted soil component.

The requirements for MSWLF facilities under this subparagraph are effective (date to be inserted) and apply to liner and cover systems that have not been approved by the department by that date.

(2) Non-municipal solid waste landfills may utilize a liner system meeting 103.2(1)d(1) or shall have a soil liner consisting of at least four feet of re-compacted soil. The description, source and volume of the material used for the landfill liner, including the method of

installation, must be provided. ~~The portion of the site to be filled must have a soil liner consisting of at least four feet of recompacted soil.~~ The coefficient of permeability must be 1×10^{-7} cm/sec (0.00028 ft/day) or less as determined by appropriate laboratory analysis. The percent of standard or modified proctor density at moisture contents consistent with expected field conditions and corresponding to a measured coefficient of permeability equal to or less than 1×10^{-7} cm/sec shall be determined in the laboratory. The soil shall be placed in lifts not to exceed eight inches in thickness. A minimum of one field density test shall be performed per lift per acre to verify that the density determined by the laboratory analysis as correlated to permeability has been achieved. Results of field density tests shall be submitted to the department prior to the placement of solid waste.

ITEM 2. Amend subrule 103.2(1) paragraph "e," as follows

e. Alternative liner systems:

(1) The department may approve an alternative to the liner system specified in subparagraph 103.2(1)d(1) provided that the alternative liner system design has included certification by a professional engineer registered in Iowa stating that the proposed alternative liner system will ensure that the contaminant concentration values listed in federal regulations under 40 CFR 258, Subpart D, Table 1, will not be exceeded in the uppermost aquifer at the designated monitoring points of compliance as specified by the department. This point of compliance shall be no more than 150 meters from the waste management boundary.

This point of compliance is to be utilized for the purpose of certifying the alternative design only. All operational issues related to monitoring systems, compliance determinations, groundwater assessments, and remedial measures are governed by the appropriate relevant sections in 567 Chapter 103 and 567 Chapter 111. The certification shall be on a form furnished by the department which shall include space for identification of the sources of data utilized; formulas, models, tests or other methods utilized to determine contaminant concentrations at the points of compliance; and all references or guidance documents relied upon for the techniques or methods applied. A copy of all data utilized, formulas, models, tests or other methods utilized to determine contaminant concentrations at the point of compliance shall be placed in the facilities official files prior to operation of the landfill.

e. (2) An alternative liner system to that required in subparagraph "d" 103.2(1)d(2) may be approved by the director—~~(1) if: The~~ the design of the liner system is equivalent to the soil liner required in subparagraph "d" 103.2(1)d(2) ~~of this subrule~~ in performance, longevity and protection of the groundwater; or ~~(2) Based~~ based on the specific type of waste to be disposed, the design of the liner system offers equivalent protection of the groundwater. ~~(3) Undisturbed~~ soil will not be allowed for use as liner material.

ITEM 3. Amend subparagraph 103.2(11)"a"(4), as follows:

(4) Leachate collection pipe shall be placed in a trench excavated a minimum of 18 inches into the liner. ~~Additional soil must be added~~ The liner system beneath the trench ~~to provide a minimum of four feet of soil liner, as required by~~ shall meet the applicable requirements specified under 103.2(1)"d".

ITEM 4. Amend subrule 103.2(13) as follows:

103.2(13) Closure requirements. The owner or operator of the landfill must close the site in a manner that minimizes the potential for postclosure release of pollutants to the air, groundwater or surface waters.

a. A minimum of two permanent surveying monuments must be installed by a registered land surveyor from which the location and elevation of wastes, containment structures, and monitoring facilities can be determined throughout the postclosure period.

b. The final cover of a non-municipal solid waste landfill shall consist of:

(1) Not less than two feet of compacted soil. The permeability must be 1×10^{-7} cm/sec or less as determined by appropriate laboratory analysis. The percent of standard or modified procter density at moisture content consistent with expected field conditions and corresponding to a measured coefficient of permeability equal to or less than 1×10^{-7} cm/sec shall be determined in the laboratory. The soil shall be placed in lifts not to exceed eight inches in thickness. A minimum of one field density test shall be performed per lift per acre to verify that the density determined by the laboratory analysis as correlated to permeability has been achieved. Results of field density tests shall be submitted to the department. The compacted soil shall be keyed into the bottom liner at the waste cell boundary.

(2) Not less than two feet of uncompacted soil, containing sufficient organic matter to support vegetation. The thickness of this soil layer must be at least the root depth of the planned vegetative cover to prevent root penetration into the underlying soil layers. This layer shall be placed as soon as possible to prevent desiccation, cracking and freezing of the compacted soil layer described in 103.2(13)"b"(1).

(3) A layer of compacted soil, incinerator ash, or similar material permitted by the department may be used to prepare the site for placement of the compacted soil layer described in 103.2(13)"b"(1).

(4) Alternate methods and materials may be permitted if shown to provide equal or superior performance.

~~(5) Those portions of existing landfills demonstrating placement of final cover in conformance with previously approved plans and specifications or regulations in affect at the time of such approval shall not be required to apply additional cover solely to achieve compliance with 103.2(13)"b"(1) and (2). Those areas of existing landfills which have not been completed in conformance with the exemption provided herein prior to the enactment of this subrule shall complete all such areas in conformance with an approved closure plan pursuant to 567 subrule 102.12(10) and which shall include compliance with the provisions of 103.2(13)"b"(1) and (2). This paragraph shall not preclude a requirement to provide additional cover to such exempted areas as a result of the conclusions of a groundwater assessment or remedial action plan.~~

c. The final cover for a municipal solid waste landfill shall consist of:

(1) An erosion layer underlain by an infiltration layer. The infiltration layer must be comprised of a minimum of 18 inches of earthen material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoil's present, or a permeability no greater than 1×10^{-5} cm/sec, whichever is less. The erosion layer must consist of a minimum of 6 inches of earthen material that is capable of sustaining native plant growth.

(2) The department may approve an alternate final cover design that includes an infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer

specified above in subparagraph (1) and an erosion layer that provides equivalent protection from wind and water erosion as the erosion layer specified above in subparagraph (1).

d. Those portions of existing landfills demonstrating placement of final cover in conformance with previously approved plans and specifications or regulations in affect at the time of such approval shall not be required to apply additional cover solely to achieve compliance with 103.2(13)"b" and "c". Those areas of existing landfills which have not been completed in conformance with the exemptions provided herein prior to the enactment of this subrule shall complete all such areas in conformance with an approved closure plan pursuant to 567--subrule 102.12(10) and which shall include compliance with the provisions of 103.2(13)"b" and "c". This paragraph shall not preclude a requirement to provide additional cover to such exempted areas as a result of the conclusions of a groundwater assessment or remedial action plan.

~~e.~~ e. The final cover shall be designed and graded to meet the drainage requirements of 103.2(1)"f." The final cover must have a minimum slope of 5 percent, and shall not exceed a slope of 25 percent. Those portions of existing landfills demonstrating placement of final cover in conformance with previously approved plans and specifications shall not be required to reconstruct the cover to meet either the minimum or maximum slope established by this subrule. Those areas which have not been completed by placement of final cover pursuant to this exemption at the time of enactment of this subrule shall complete all such areas in conformance with an approved closure plan pursuant to 567--subrule 102.12(10) and which shall not preclude a requirement to modify the slope of any portion of the landfill as a result of the conclusion of a groundwater assessment or remedial action plan.

~~d.~~ f. The final cover shall be seeded as soon as practical upon completion with native grasses or other suitable vegetation to prevent soil erosion. If seeding must be delayed due to summer or winter conditions, silt fences or other structures shall be used to minimize erosion of the final cover until the next season suitable for planting. The placement of cover in conformance with 103.2(13)"b" and "c" shall not be delayed due to season and shall be placed as soon as the solid waste has reached its maximum design elevation within the cell. Vegetation type shall be based on density and root depth, nutrient availability, soil thickness, and soil type. Alternatives to vegetative cover may be considered to control erosion and promote runoff.

~~e.~~ g. An approved groundwater monitoring system as required by the closure permit and the rules must be in place and operating.

~~f.~~ h. An approved leachate collection and treatment system as required by the closure permit and the rules must be in place and operating.

~~g.~~ i. An approved landfill gas monitoring and collection or ventilation system as required by the closure permit and the rules must be in place or operating unless determined not to be necessary by the director.

~~h.~~ j. An approved financial assurance instrument, adequate to cover costs of all postclosure activities as required by the closure plan and the closure permit must be provided upon promulgation of the appropriate rules.

~~i.~~ k. All requirements of the closure plan, the closure permit, and the rules must be satisfied.

Date

Larry J. Wilson, Director

Mr. McAllister explained details of the rule.

Charlotte Mohr inquired as to whether one public hearing is enough for this rule.

Mr. McAllister stated that the landfill operators have been involved in the rules development and they think one hearing is adequate.

Commissioner Mohr further inquired if the rules would cover landfills that have been closed.

Mr. McAllister indicated that it covers only the existing, active landfills.

Motion was made by William Ehm to approve Notice of Intended Action--Chapter 103, Sanitary Landfills. Seconded by Verlon Britt. Motion carried unanimously.

APPROVED AS PRESENTED

PETITION FOR RULEMAKING -- LIZ GILBERT

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Commission is requested to approve the Proposed Denial of Petition, for the reasons stated therein. A copy of the Petition for Rulemaking, and attachments, are also included.

BEFORE THE IOWA DEPARTMENT OF NATURAL RESOURCES

Petition by Liz Gilbert,

**for the Adoption of Rules Relating to
Animal Feeding Operations Citizens
Complaints**

PROPOSED

DENIAL OF PETITION

Liz Gilbert, of rural Iowa Falls, has requested that the Commission adopt rules relating to citizen complaints to enforce animal feeding operation law and rules, as well as any other

complaints. The Petition requests that guidelines and deadlines be established within DNR for investigating and responding to such complaints. As reasons for such rulemaking, she asserts:

1. That she filed a complaint in September, 1995, but part has not been investigated as of February, 1996.
2. That there were 371 complaints relating to animal feeding operations in 1995, with only 13 enforcement actions resulting. She asks what happened to the rest of the complaints.
3. There are no rules that establish how or when the DNR shall respond to complaints, and no written standards, guidelines, deadlines, or rules to determine how decisions are made whether or not to investigate or whether or not there is compliance.

As is pointed out in the Petition, there are various Iowa Code provisions specifying when the Department must investigate complaints and when it has discretion.

- 455B.103 Director's duties. The director shall:
 4. Conduct investigations of complaints received directly or referred by the commission created in section 455A.6 or other investigations deemed necessary.....
- 455B.134 Director — duties — limitations. The director shall:
 8. Consider complaints of conditions reported to, or considered likely to, constitute air pollution, and investigate such complaints upon receipt of the written petition of any state agency, the governing body of a political subdivision, a local board of health, or twenty-five affected residents of the state.
- 455B.174 Director's duties. The director shall:
 1. Conduct investigations of alleged water pollution or of alleged violations of this part of this division or any rule adopted or any permit issued pursuant thereto upon written request of any state agency, political subdivision, local board of health, twenty-five residents of the state, as directed by the department, or as may be necessary to accomplish the purposes of this part of this division.
- 455B.274 Unauthorized depleting uses.

If a person files a complaint with the department that another person is making a depleting use of water not expressly exempted as a nonregulated use under this part and without a permit to do so, the department shall cause an investigation to be made and if the facts stated in the complaint are verified the department shall order the discontinuance of the use.

- 455B.312 Waste abatement program.
 1. If the department receives a complaint that certain products or packaging when disposed of are incompatible with an alternative method of managing solid waste and with the solid waste management policy, the director shall investigate the complaint.....

The Petitioner alludes to rule chapter 561 IAC 3, which basically incorporates these provisions of law:

561—3.3(17A,455A) Submission of complaints—investigations.

3.3(1) General complaints. Complaints other than those against department employees must be submitted, and will be investigated, as follows:

a. Submission requirements. Complaints concerning alleged violations of departmental statutes or rules should be submitted in writing to the appropriate field office, district office, or the central office (see rule 1.4(17A,455A)) and the nature of the complaint must be summarized in a concise manner. If the complaint is in the form of a petition, the signature, printed name and address of each petitioner should be included in addition to a concise summary of the complaint; and one representative also must be specified for the purpose of receiving any communication from the department on behalf of all petitioners.

b. Investigation procedure.

(1) Mandatory investigations. The department shall investigate the following types of complaints: alleged unauthorized depleting uses of water pursuant to Iowa Code section 455B.274; alleged violations of air or water pollution statutes, rules or permits when requested by any state agency, political subdivision, local board of health, or 25 residents of the state pursuant to Iowa Code subsections 455B.134(8) and 455B.174(1). The appropriate office shall conduct an investigation and notify the complainant of the results of the investigation.

(2) Discretionary investigations. Complaints not described in 3.3(1)"b"(1) may be investigated by the department if it appears that an investigation is needed to ensure compliance with applicable departmental statutes or rules. In the case of written complaints, the appropriate office shall notify the complainant of the results of the investigation or of its decision not to conduct an investigation, unless the complaint is anonymous.

c. Confidentiality. In some cases, names of complainants may be kept confidential by the department pursuant to Iowa Code subsection 22.7(18) (see subrule 2.4(1)).

As noted by the Petitioner, investigations that are not mandatory are discretionary. The only standard given in the rule is the necessity to ensure compliance with applicable department statutes or rules.

The Environmental Protection Division of the department receives roughly 2,000 complaints per year, with totals for feedlot complaints in recent years being 15-20% of that. Almost all of those complaints fall in the discretionary category. The range of specificity, seriousness, or relevance to the jurisdiction of the department of complaints is so wide, that it would be difficult if not

impossible to formulate guidelines and deadlines for responding to each of them. The term "investigation" may or may not infer or require actual on-site inspections. This leaves a wide latitude for investigatory responses including, telephone contacts, file searches, reference to previous and recent investigations already conducted at a facility, etc.

How and how fast we respond to complaints will always depend on how many people we have to do the job, the workload at the time, and what the person in the field or their managers decide are the priorities at the time. A key consideration in determining how and when to investigate will always be the apparent/alleged seriousness of the complained about incident relative to overall environmental or public health and safety impacts. For example, complaints about alleged administrative or procedural violations would and should of necessity be given a lower priority than allegations of violations about actual contamination events. Given staffing limitations and the continual and dynamic nature of complaints received, it would be impossible and possibly detrimental to arbitrarily impose schedules or deadlines. "Discretion" is defined as the freedom or authority to make decisions and choices. The department's time would be better spent responding to complaints than in the exercise of trying to further define discretion.

Regarding the specific complaint of the Petitioner, our field staff conducted an investigation of it within a matter of days after the complaint was filed. The department's legal staff is continuing with the investigation. The case involves a question of whether a construction permit is required, and does not involve any actual pollution. There are issues of interpretation of rules which may ultimately have to be decided by the Commission or courts. Investigation has continued in part based on additional information or allegations supplied by the Petitioner and others. Obviously she is not satisfied with the time it is taking, and her priorities are not the same as the department's. No rule is going to cure that.

Regarding what happened to the feedlot complaints that did not result in enforcement action, any number of things could have happened. Some of the complaints we get are so vague or obviously not within our jurisdiction, that no investigation is done. Others are investigated and no violations are found; in some cases our staff are sent on wild goose chases. Other investigations document minor violations for which a notice of violation is issued; if no further problems occur, no enforcement action is taken. In a relatively few cases, enforcement action is taken, which may or may not include fines. In all cases, a written record of the complaint and its disposition is made. Where a complainant gives their name and does not ask for it to be kept confidential, our policy is that a written report of the results of an investigation, if one is done, will be made and a copy is sent to the complainant. In addition, under Iowa's open records law, the public may inspect our files and determine the disposition of complaints, among other things.

For the above-stated reasons, the department declines to initiate rulemaking proceedings on this subject.

Larry J. Wilson, Director
Iowa Department of Natural Resources

Dated this ____ day
of April, 1996.

(A copy of Ms. Gilbert's petition is on file in the department's Records Center)

Mr. Murphy stated that Liz Gilbert is present and she has filed a Petition for Rulemaking requesting that the department adopt rules providing guidelines and deadlines for responding to complaints. He related that the department has proposed to deny the petition for the reason that the Code specifies those areas in which the department is mandated to respond to complaints or perform investigations. He added that many complaints that are received are not within the department's jurisdiction or may be low priority. Mr. Murphy stated that he is not aware of any problems with staff response to any complaints that involve harm to the environment and it would be quite a chore to try to define the exercise of discretion. He related that responses to some complaints are discretionary and are not mandated by the Code.

Appointment - Liz Gilbert

Liz Gilbert addressed the Commission asking them to approve the petition because the alternative is to impose, as Missouri has recently done, some costly and burdensome state inspections. She expressed concern that the Animal Feeding Operation law requires only one inspection at a site and that is prior to construction. She implied that there is a perception in the state that DNR is ignoring citizens complaints about these sites. Ms. Gilbert indicated that only 4% of the complaints ever led to an enforcement action, and the remaining complaints out of 371 have been summarized as minor things. She stated that she began this process with the hope that the DNR would adopt a mindset of putting a regulatory emphasis on prevention rather than rehabilitating the producer after damage occurs. She cited a situation when her complaint was ignored and it took seven other neighbors calling to get DNR to do something about it. Ms. Gilbert displayed a copy of the one page Complaint Record form used by DNR and elaborated on her complaint. She distributed copies of letters by other individuals indicating lack of response by DNR to citizen complaints. She indicated that while she was spending money and time trying to get help with her complaint, the producer was receiving a profit for the sale of his pigs. She noted that Representative Sukup introduced legislation for co-enforcement which would allow the county to enforce DNR regulations if the DNR did not act on them in reasonable time. She distributed copies of the following "Possible Guidelines and Deadlines" and asked the Commission to go through the rulemaking procedure so that her suggestions can be put up against any other person's suggestions:

1. Locational Maps to identify sites and fields
2. DNR Monitoring Mindset (leading questions) What activity occurred? Is anything happening that should not be? What additional facts are necessary to trigger an on-site evaluation?
3. 800-phone number
4. Respond to caller within weeks, not months
5. DNR should not rely on producer for facts - Where is objectivity? How discover when producer is not telling the truth? How discover when producer is covering up before an inspection?

6. Procedures for "technical violations" which DNR is to enforce
7. Random inspection of site after caller-identified problem
8. Clarify when injunctions available and how fines are assessed
9. A regulatory emphasis on prevention, not rehabilitation

Appointment - Rebecca Cole

Rebecca Cole, Story County, stated that she has been before the Commission and has asked for help and had not gotten any. She added that she feels Liz Gilbert's petition is something that could be done. She stated that she previously told the Commission that Hamilton County has more field tiles than any other county in Iowa and they would be a problem. She noted that she found out that even when tiling was done around Mr. DeCoster's facilities they did not go deep enough and they are still leaking. Ms. Cole related that she would like to have the rules developed to know that something is going to be done when citizens call with complaints.

Mr. Murphy remarked that the department can only do so much with the resources it has and the North Central field office is very responsive to the significant pollution complaints they receive. He related that they have to make some judgement calls as far as how they respond to some of these situations.

Discussion followed regarding department policy on responding to complaints and the normal response time for same.

Mr. Murphy explained that the response time depends on the gravity of the situation and whether the complaint went directly to the field office or came through several individuals in the central office. He related that sometimes staff will ask the county sanitarian to respond if no one in DNR is available.

Chairperson King asked for clarification on what HF 519 did in regard to inspections.

Mr. Murphy stated that it established the Manure Management Plan (MMP) aspect. Don Paulin noted that the department requested funding for six FTE's in the field and one in central office and received approval for all seven, but funding was allocated for only five FTE's. Mr. Murphy noted that the additional FTE's will go out in the field and review MMP's as well as respond to complaints.

Rebecca Cole asked who will pay for the DeCoster testing.

Mr. Murphy replied that Mr. DeCoster himself will pay for the testing.

Ms. Cole asked who will pay for DNR personnel to inspect the facilities.

Mr. Murphy indicated that it those monies will come from the general fund.

Kermit Mystal

Kermit Mystal, Prairie City, addressed the Commission citing a situation where a mud run in a sidewall indicated leaking. He expanded on the issue and stressed that the large outfits should have to pay a permit fee and be inspected from 2-4 times a year. He added that the inspections should be done by DNR and not the facility's own engineer.

Mr. Murphy commented that he would like to have more employees to do the work but he does not feel that adopting the rules will solve the problem.

Director Wilson commented on the new staff to come on board in July and added that a staff person from the Geological Survey Bureau will be present when re-testing is done on the DeCoster facilities.

Discussion followed regarding provisions in the Code relating to discretionary investigations.

Gary Priebe commented that he feels the department has rules now that are not needed, adding that the staff and field office personnel do a good job. He related that he has had good response from the Mason City field office.

Motion was made by Gary Priebe to deny the Petition for Rulemaking requested by Liz Gilbert. Seconded by Charlotte Mohr.

Discussion followed in regard to prioritizing complaints as they are received.

Liz Gilbert stated that she is not asking that every complaint form be investigated, but is concerned about when a citizen is taking one side of an issue and a producer is taking another, there has to be some way for DNR to know who to believe.

Verlon Britt stated that rules may not be the answer at this time and related that the new legislation on hog confinements should be given a chance to work. He added that there is a need for continued public input and he feels Ms. Gilbert has offered some good suggestions.

Chairperson King asked Don Paulin if he and the staff could pull out of the rules something that would address some of these suggestions/issues here today.

William Ehm suggested the staff provide a response to the suggestions as to how they could be handled administratively rather than through rules.

Mr. Paulin stated that the department attempts to be very prompt in responding to environmental problems but the majority of the things mentioned today are technical as opposed to environmental. He added that it doesn't mean technical issues should not be dealt with, but they should be dealt with second.

Vote on Commissioner Priebe's motion to deny the petition carried unanimously.

PETITION FOR RULEMAKING DENIED

Director Wilson stated that he will cover these issues during the EPD staff retreat and will have Al Stokes make a presentation at the June meeting on the field offices, how they are staffed, and the number of complaints received and handled by those offices.

REFERRALS TO THE ATTORNEY GENERAL

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- a. Postville Pork (Allamakee County) - water pollution
- b. Weiland & Sons Lumber Co. (Winthrop) - penalty collection
- c. Randy Ballard (Fayette County) - flood plain

Postville Pork

Mr. Murphy reminded the Commission that this item was previously tabled and needs to be removed from the table.

Motion was made by William Ehm to remove the Postville Pork referral from the table. Seconded by Terrance Townsend. Motion carried unanimously.

REFERRAL REMOVED FROM TABLE

Mr. Murphy briefed the Commission on the history of this case involving a fish kill. He noted that the central issue is a dispute over the value of the fish. When the case was previously brought before the Commission it was suggested that staff try to resolve it informally. He related that staff have worked for a resolution but have not been able to accomplish one, so referral is being requested.

Appointment - Pat Boe

Dr. Pat Boe, General Manager of Postville Pork, addressed the Commission stating that it was an unfortunate set of circumstances that caused the manure discharge. He related that he does not think Postville Pork should have to pay restitution of \$23,000 for junk fish. He added that Postville Pork finds it difficult to see where those fish are worth even \$10,000. Dr. Boe noted that Postville Pork made a counter offer of paying 10% of the original restitution plus the civil fines and that is where they stand at this time.

Motion was made by William Ehm for referral to the Attorney General's Office. Seconded by Terrance Townsend.

Terrance Townsend stated that the Commission has given them enough opportunity to get the matter worked out and has deviated somewhat from the normal routine, and therefore he feels it should be referred.

Gary Priebe commented that since there is a great difference of opinion the only place to take care of it is through litigation in court. He added that it cannot be solved any further with the Commission.

Vote on Commissioner Ehm's motion carried unanimously.

REFERRED

FINAL RULE--CHAPTER 65 (TERMINATE RULE), MANURE MANAGEMENT PLANS FOR EXPANDED ANIMAL FEEDING OPERATIONS (CONTINUED)

Don Paulin stated that he and the staff apparently misread the lack of support at the two hearings the department held. He related that for reasons of environmental protection and the fairness issue of it, it seems that staff would now recommend that the Commission disregard the original staff recommendation. He noted that, in example, if someone has an enforcement action against them they cannot build anything other than a small animal feeding operation, but that individual could purchase an existing operation and go ahead and expand it without a MMP.

Ubbo Agena, Water Resources Section, explained that the big difference would be in terms of the requirements that would have to be met. He added that people who do not need a MMP are basically required to land dispose of manure in a manner that does not cause surface or groundwater pollution. Beyond that the rules have some guidelines that people are recommended to follow, but at their option. Mr. Agena noted that if a person has to have a MMP, then some very specific requirements must be followed. The biggest requirement deals with the land area that is required for disposal. He expanded on those requirements.

Gary Priebe stated that the Commission needs to defeat the motion in order to continue to require a MMP. He indicated that it is theoretically possible for a person could get in trouble legally on this.

Vote on the motion made by Commissioner Mohr earlier in the meeting to approve termination of Final Rule--Chapter 65, Manure Management Plans for Expanded Animal Feeding Operations failed, with all Commissioners voting "No."

RULE TERMINATION NOT APPROVED

PETITION FOR DECLARATORY RULING -- KENNETH AND REGINA THIRY

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Commission is requested to approve the Declaratory Ruling in this matter, for the reasons stated therein. The Petition and other documents referenced in the Ruling have been distributed to the Commission.

**BEFORE THE
DEPARTMENT OF NATURAL RESOURCES**

Petition by Kenneth and Regina Thiry

**For a Declaratory Ruling on Applicability of
Water Quality Standards and Wastewater
Construction and Operation Permits - 567
IAC 61 and 64**

DECLARATORY RULING

Kenneth and Regina Thiry ask for a Declaratory Ruling pertaining to the applicability of Iowa Water Quality Standards to the pending issuance of construction and wastewater discharge (NPDES) permits.

FACTS

The Petitioners cite as relevant facts that Black Hawk County is proposing the construction of a wastewater sewage lagoon in Washburn, Iowa, and has applied to this department for the necessary permits to do so. The lagoon system is proposed to discharge into an intermittent stream which flows through a water body locally known as Thiry Lake [hereinafter "water body"], then to Miller Creek and finally to the Cedar River. (See attached maps showing first the general location and geographic features, and second the more specific location and features.) The governments have not tested the water along the proposed discharge route. The

water body is used for recreational purposes by the Thiry's and their friends and neighbors. They assert that this makes the water body a Class A body of water under department rules. The Petitioners assert that the County did not inform the department regarding the water body or downstream waterways, leaving the department to make its permit decision based on a proposed discharge to an intermittent waterway. And finally, of the nearly 400 NPDES permits issued for sewage lagoons, this permit is the only one proposing a route for the effluent which runs through a private lake.

Additional facts are pertinent, in the department's view. A Responsiveness Summary dated March 29, 1996, relating to public comments made to the proposed NPDES permit for this facility summarizes additional facts and the department's response to comments, and is hereby adopted by reference in this matter. Included among the additional facts are:

1. The proposed lagoon facility is for the collection, storage and treatment of domestic sewage from the unincorporated town of Washburn (pop. ~970). Washburn is located in a relatively low-lying, flat area characterized by high groundwater, and the residents are currently served by individual, on-site waste disposal systems (septic tanks). The systems are generally failing and causing potential adverse health and aesthetic conditions in the area.
2. The proposed lagoon system is a three-cell "controlled discharge" lagoon designed to store all wastes for at least 180 days, treat the wastes to at least "secondary treatment" levels (<25 mg/L average carbonaceous biochemical oxygen demand [CBOD₅], <80 mg/L average total suspended solids [TSS], and pH between 6.0 and 9.0 pH units), and discharge treated sewage twice per year, in the spring and fall during higher than normal stream flows. Other pollutants expected in the discharge are ammonia nitrogen ranging from negligible amounts in the fall discharge, to 10-15 mg/L in the spring discharge, and fecal coliform of less than 200 organisms/100mL.
3. The drainage area of the watershed of the water body is approximately 3300 acres (5.16 mi²) to the north and west, and about 80 acres to the northeast, primarily agricultural land. The proposed discharge point is approximately 9780 feet (1.85 mi) upstream. The water body appears to be a natural low-lying or wetland area in the intermittent drainageway, but may have been altered by efforts of humans. It reportedly goes dry at times. The average depth has reportedly decreased from 5-6 feet to 3-4 feet due to sedimentation. The unnamed tributary and associated wetland areas such as the water body in question, have not been designated in the department's water quality standards for protection of specific beneficial uses and thus are "general use" water bodies.
4. The vicinity of Miller Creek and its tributaries, and information pertaining thereto, were investigated in 1992 in connection with ongoing rulemaking activities under which Iowa's surface waters are being reviewed and designated into the appropriate classifications of Iowa's Water Quality Standards. The department's implementation of surface water designations under its rules has been to conduct on-site inspections

of perennial streams and named intermittent streams, after a review of pertinent maps and technical information. Unnamed, intermittent drainage areas such as this tributary to Miller Creek do not receive on-site inspection. Miller Creek was designated as Class B(LR), based on the fact that its flow and physical characteristics limit the ability of the stream to maintain a balanced warm water fish and associated aquatic communities, but it supports populations composed of species able to survive and reproduce in a wide range of physical and chemical conditions, and are not generally harvested for human consumption. The department was aware of the receiving streams from the point of discharge to the Cedar River when it made its preliminary permit determinations, and considered the applicable design, treatment, discharge, and water quality standards.

5. There are 5 other controlled discharge lagoons in Iowa that discharge upstream from lake type water bodies, including 4 public lakes that are designated Class A.
6. The department issued the construction and NPDES permits on March 29, 1996.

APPLICABLE RULES*

61.2(1) Policy statement. It shall be the policy of the commission to protect and enhance the quality of all the waters of the state. In the furtherance of this policy it will attempt to prevent and abate the pollution of all waters to the fullest extent possible consistent with statutory and technological limitations. This policy shall apply to all point and nonpoint sources of pollution.

These water quality standards establish selected criteria for certain present and future designated uses of the surface waters of the state. The standards establish the areas where these uses are to be protected and provide minimum criteria for waterways having nondesignated uses as well.

.....

61.2(2) Antidegradation policy. It is the policy of the state of Iowa that:

a. **Existing surface water uses and the level of water quality necessary to protect the existing uses will be maintained and protected.**

61.2(3) Minimum treatment required. All wastes discharged to the waters of the state must be of such quality that the discharge will not cause the narrative or numeric criteria limitations to be exceeded. Where the receiving waters provide sufficient assimilative capacity that the water quality standards are not the limiting factor, all point source wastes shall receive treatment in compliance with minimum effluent standards as adopted in rules by the department.

61.2(4) Regulatory mixing zones. Mixing zones are recognized as being necessary for the initial assimilation of point source discharges which have received the required degree of treatment or control. Mixing zones shall not be used for, or considered as, a substitute for minimum treatment technology required by subrule 61.2(3). The objective of establishing

* Language in **bold** is that specifically cited by the Petitioners.

mixing zones is to provide a means of control over the placement and emission of point source discharges so as to minimize environmental impacts. Waters within a mixing zone shall meet the general water quality criteria of subrule 61.3(2). **Waters at and beyond mixing zone boundaries shall meet all applicable standards and the chronic and human health criteria of subrule 61.3(3), Tables 1 and 3, for that particular water body or segment.** A zone of initial dilution may be established within the mixing zone beyond which the applicable standards and the acute criteria of subrule 61.3(3) will be met. For waters designated under subrule 61.3(5), any parameter not included in Tables 1, 2 and 3 of subrule 61.3(3), the chronic and human health criteria, and the acute criterion calculated following subrule 61.2(1), will be met at the mixing zone and zone of initial dilution boundaries, respectively.

....

61.2(5) Implementation strategy. Numerical criteria specified in these water quality standards shall be met when the flow of the receiving stream equals or exceeds the seven-day, ten-year low flow. Exceptions may be made for intermittent or low flow streams classified as significant resource warm waters or limited resource warm waters. For these waters, the department may waive the seven-day, ten-year low flow requirement and establish a minimum flow in lieu thereof. Such waiver shall be granted only when it has been determined that the aquatic resources of the receiving waters are of no significance at flows less than the established minimum, and that the continued maintenance of the beneficial uses of the receiving waters will be ensured.

....

61.3(1) Surface water classification. All waters of the state are classified for protection of beneficial uses. These classified waters include general use segments and designated use segments.

a. General use segments. These are intermittent watercourses and those watercourses which typically flow only for short periods of time following precipitation in the immediate locality or as a result of discharges from wastewater treatment facilities, and whose channels are normally above the water table. These waters do not support a viable aquatic community of significance during low flow, and do not maintain pooled conditions during periods of no flow.

However, during periods when sufficient flow exists in the intermittent watercourses to support various uses, the general use segments are to be protected for livestock and wildlife watering, noncontact recreation, crop irrigation, and industrial, agricultural, domestic and other incidental water withdrawal uses. The aquatic life existing within these watercourses during elevated flows will be protected from acutely toxic conditions.

b. Designated use segments. These are water bodies which maintain flow throughout the year, or contain sufficient pooled areas during intermittent flow periods to maintain a viable aquatic community of significance.

Designated use waters are to be protected for all uses of general use segments in addition to the specific uses assigned. Designated use segments include:

(1) Primary contact recreation (Class "A"). Waters in which recreational or other uses may result in prolonged and direct contact with the water, involving considerable risk of

ingesting water in quantities sufficient to pose a health hazard. Such activities would include, but not be limited to, swimming, diving, water skiing, and water contact recreational canoeing.

....

61.3(2) General water quality criteria. The following criteria are applicable to all surface waters including general use and designated use waters, at all places and at all times to protect livestock and wildlife watering, aquatic life, noncontact recreation, crop irrigation, and industrial, domestic, agricultural and other incidental water withdrawal uses not protected by the specific numerical criteria of subrule 61.3(3).

a. Such waters shall be free from substances attributable to point source wastewater discharges that will settle to form sludge deposits.

b. Such waters shall be free from floating debris, oil, grease, scum and other floating materials attributable to wastewater discharges or agricultural practices in amounts sufficient to create a nuisance.

c. Such waters shall be free from materials attributable to wastewater discharges or agricultural practices producing objectionable color, odor or other aesthetically objectionable conditions.

d. Such waters shall be free from substances attributable to wastewater discharges or agricultural practices in concentrations or combinations which are acutely toxic to human, animal, or plant life.

e. Such waters shall be free from substances, attributable to wastewater discharges or agricultural practices, in quantities which would produce undesirable or nuisance aquatic life.

f. The turbidity of the receiving water shall not be increased by more than 25 Nephelometric turbidity units by any point source discharge.

g. Total dissolved solids shall not exceed 750 mg/l in any lake or impoundment or in any stream with a flow rate equal to or greater than three times the flow rate of upstream point source discharges.

h. Water which enters a sinkhole or losing stream segment shall not exceed a fecal coliform content of 200 organisms/100 ml, except when the waters are materially affected by surface runoff; but in no case shall fecal coliform levels downstream from an existing discharge which may contain pathogens to humans be more than 200 organisms/100 ml higher than the background level upstream from the discharge. No new wastewater discharges will be allowed on watercourses which directly or indirectly enter sinkholes or losing stream segments.

61.3(3) Specific water quality criteria.

a. **Class "A" waters.** Waters which are designated as Class "A" in subrule 61.3(5) are to be protected for primary contact recreation. The general criteria of subrule 61.3(2) and the following specific criteria apply to all Class "A" waters.

(1) From April 1 through October 31, the fecal coliform content shall not exceed 200 organisms/100 ml, except when the waters are materially affected by surface runoff; but in no case shall fecal coliform levels downstream from a discharge which may contain pathogens to humans be more than 200 organisms/100 ml higher than the background level upstream from the discharge.

(2) The pH shall not be less than 6.5 nor greater than 9.0. The maximum change permitted as a result of a waste discharge shall not exceed 0.5 pH units.

.....

61.3(5) Surface water classification.

.....

Iowa Water Quality Standards Water Use Designations

e.

.....

IOWA-CEDAR RIVER BASIN

(Ch. 61, p. 61)

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Iowa-Cedar River Basin. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

.....

	Cedar R.		(p.66)
36.	Bridge crossing in LaPorte City to the dam at Cedar Falls	B(WW)	

.....

	Miller Cr.		(p.71)
89.	Mouth (S35, T88N, R12W, Black Hawk Co.) to confluence with an unnamed tributary (S7, T87N, R12W, Black Hawk Co.)	B(LR)	

.....

LAKES

(p.125)

<u>County</u>		<u>Location</u>	<u>Water Uses</u>
	<u>Lake Name</u>	<u>R. T. S.</u>	
.....			
<u>Black Hawk</u>			
15	Black Hawk Park Ponds	14 90 34	B(LW)
16	Cedar Falls Impoundment (refer to Iowa-Cedar River Basin)		
17	City Park Pond (Waterloo)	13 89 15	B(LW)
18	Fisher Lake	13 89 6	B(LW)
19	George Wyth Lake	13 89 6	A B(LW)

20	Green Belt Lake	13 89 6	A	B(LW)
21	Hope Martin Pond	13 89 27		B(LW)
22	Meyer Lake	12 88 6	A	B(LW)

....

CHAPTER 62

EFFLUENT AND PRETREATMENT STANDARDS: OTHER EFFLUENT LIMITATIONS OR PROHIBITIONS

567—62.1(455B) Prohibited discharges.

62.1(1) The discharge of any pollutant from a point source into a navigable water is prohibited unless authorized by an NPDES permit. For purposes of this subrule, an NPDES permit includes an NPDES permit issued by the administrator prior to approval of the Iowa NPDES program.

....

567—62.3(455B) Secondary treatment information: effluent standards for publicly owned treatment works and privately owned domestic sewage treatment works.

62.3(1) General. The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment in terms of the pollutant measurements carbonaceous biochemical oxygen demand (CBOD₅), the five-day measure of the pollutant parameter carbonaceous biochemical oxygen demand; suspended solids (SS), the pollutant parameter total suspended solids; and pH, the measure of the relative acidity or alkalinity. All requirements for each pollutant measurement shall be achieved by publicly owned treatment works and privately owned domestic sewage treatment works except as provided for in subrules 62.3(2) and 62.3(3).

....

- a. Carbonaceous biochemical oxygen demand (5 day) — CBOD₅.
 - (1) The 30-day average shall not exceed 25 mg./l.
 - (2) The 7-day average shall not exceed 40 mg./l.
 - (3) The 30-day average percent removal shall not be less than 85 percent.

- b. Suspended solids — SS.
 - (1) The 30-day average shall not exceed 30 mg/l.
 - (2) The 7-day average shall not exceed 45 mg/l.
 - (3) The 30-day average percent removal shall not be less than 85 percent.

- c. pH: The effluent values for pH shall be maintained within the limits of 6.0 to 9.0...

....

62.3(2) Special considerations.

....

- c. Waste stabilization ponds. Departmental secondary treatment standards for waste stabilization ponds are the same as those found in subrule 62.3(1) concerning secondary treatment with the exception of the standards for suspended solids which are as follows:

- (1) SS, the 30-day average shall not exceed 80 mg/l.
 - (2) SS, the 7-day average shall not exceed 120 mg/l.
-

567—62.8(455B) Effluent limitations or pretreatment requirements more stringent than the effluent or pretreatment standards.

....

62.8(2) Effluent limitations necessary to meet water quality standards. No effluent, alone or in combination with the effluent of other sources, shall cause a violation of any applicable water quality standard. When it is found that a discharge that would comply with applicable effluent standards in 62.3(455B), 62.4(455B) or 62.5(455B) or effluent limitations in 62.6(455B) would cause violation of water quality standards, the discharge will be required to meet whatever effluent limitations are necessary to achieve water quality standards, including the nondegradation policy of 567—subrule 61.2(2). Any such effluent limitation shall be determined using a statistically based portion of the calculated waste load allocation, as described in "Supporting Document for Iowa Water Quality Management Plans" (Iowa Department of Water, Air and Waste Management, July 1976, Chapter IV, as revised on March 20, 1990). (Copy available upon request to the Department of Natural Resources, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319. Copy on file with the Iowa Administrative Rules Coordinator.)

The first 32 pages of the Supporting Document describe complex analytical methodologies, computer models, formulae, assumptions, and data inputs that relate to waste load allocations, primarily relating to dissolved oxygen and ammonia nitrogen determinations. Data sources for modeling are identified on pages 33-40, and include wastewater discharge information; river mile information, based on official maps; field reconnaissance, to identify physical characteristics, not chemical characteristics; river channel slopes, based on maps and technical literature; river widths and roughness coefficients, based on field reconnaissance, maps, and technical references; stream flow, based on technical references and literature; tributary and groundwater quality, based on assumptions, and hand calculations relating to wastewater discharges; rate constants, based on assumptions and experimental data; general information relating to dams and impoundments; and information relating to winter conditions.

Pages 40-76 describe the mechanics and assumptions for calculating permit limitations based on waste load allocations. Pertinent provisions include:

- “Only continuously discharging sources of wastewater are included in the modeling procedure. Waste stabilization ponds having controlled discharge capabilities were assumed not be (sic) discharging at low flow conditions.” (p.42)

- “The water quality standards specifically mention seven criteria that apply to all surface waters)61.3(2))....In waters not in one of the six designated uses, these seven criteria must still be met.”
- “Length of the mixing zone may not exceed the most restrictive of the following....f. A distance of 2,000 feet....” (p.71)

.....

CHAPTER 64 WASTEWATER CONSTRUCTION AND OPERATION PERMITS

.....

567—64.2(455B) Permit to construct.

64.2(1) No person shall construct, install or modify any wastewater disposal system or part thereof or extension or addition thereto without, or contrary to any condition of, a construction permit issued by the director or by a local public works department authorized to issue such permits under 567—Chapter 9, nor shall any connection to a sewer extension in violation of any special limitation specified in a construction permit pursuant to 64.2(10), paragraph "a," "b," or "f" be allowed by any person subject to the conditions of the permit.

64.2(2) The site for each new wastewater treatment plant or expansion or upgrading of existing facilities must be inspected and approved by the department prior to submission of plans and specifications. Applications must be submitted in accordance with 567—60.4(455B).

.....

64.2(9) Review of applications.

a. Review of applications for construction permits shall be based on the criteria contained in the "Iowa Wastewater Facilities Design Standards," the Ten States Standards, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent of any conflict between the above criteria the "Iowa Wastewater Facilities Design Standards" standards shall prevail.

b. The chapters of the "Iowa Wastewater Facilities Design Standards"* that apply to wastewater facilities projects, and the date of adoption of those chapters are:

Chapter	Date of Adoption
.....	
18. Biological treatment	
A. Fixed film media treatment	October 21, 1985
B. Activated sludge	March 22, 1984
C. Wastewater treatment ponds (Lagoons)	April 25, 1979 (Amended May 20, 1986 and May 20, 1987)
.....	

567—64.3(455B) Permit to operate.

64.3(1) Except as provided otherwise in this subrule and in 567—Chapter 65, no person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the director;....

.....

64.3(10) Operation permits shall contain such conditions as are deemed necessary by the director to ensure compliance with all applicable rules of the department, including monitoring and reporting conditions, to protect the public health and beneficial uses of state waters, and to prevent water pollution from waste storage or disposal operations.

.....

567—64.5(455B) Notice and public participation in the individual NPDES permit process.

64.5(1) Formulation of tentative determination and draft NPDES permit. The department shall make a tentative determination to issue or deny an NPDES permit for the discharge described in a Refuse Act or NPDES application in advance of the public notice of 64.5(2). If the tentative determination is to issue the NPDES permit, the department shall prepare a draft NPDES permit. The draft permit shall include the following:

- a. Effluent limitations identified pursuant to 64.6(2) and 64.6(3), for those pollutants proposed to be limited.
- b. If necessary, a proposed schedule of compliance, including interim dates and requirements, identified pursuant to 64.6(4), for meeting the effluent limitations and other permit requirements.
- c. Any other special conditions (other than those required in 64.6(5)) which will have a significant impact upon the discharge described in the NPDES application.

64.5(2) Public notice.

- a. Prior to the issuance of an NPDES permit, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge....
-

64.5(6) Public hearings on proposed NPDES permits. The applicant, any affected state, the regional administrator, or any interested agency, person or group of persons may request or petition for a public hearing with respect to an NPDES application.

.....

567—64.7(455B) Terms and conditions of NPDES permits.

64.7(1) Prohibited discharges. No NPDES permit may authorize any of the discharges prohibited by 567—62.1(455B).

64.7(2) Application of effluent, pretreatment and water quality standards and other requirements. Each NPDES permit shall include any of the following that is applicable:

- a. An effluent limitation guideline promulgated by the administrator under Sections 301 and 304 of the Act and adopted by reference by the commission in 567—62.4(455B).
-

- d. A water quality related effluent limitation established by the administrator pursuant to Section 302 of the Act.

.....

In any case where an NPDES permit applies to effluent standards and limitations described in paragraph "a," "b," "c," "d," "e," "f," or "g," the director must state that the discharge authorized by the permit will not violate applicable water quality standards and must have prepared some verification of that statement. In any case where an NPDES permit applies any more stringent effluent limitation, described in 64.7(2)"f"(1), based upon applicable water quality standards, a waste load allocation must be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

64.7(3) Effluent limitations in issued NPDES permits. In the application of effluent standards, and limitations, water quality standards, and other legally applicable requirements, pursuant to 64.7(2), the director shall, for each issued NPDES permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight). The director may, in addition to the specification of daily quantitative limitations by weight, specify other limitations such as average or maximum concentration limits, for the level of pollutants authorized in the discharge.

OTHER LEGAL CONSIDERATIONS

In February, 1991, the Commission published a proposed rule which among other things would designate Big Creek in Henry County as Class B(WW) and Class B(LR) in specified segments. During public comments on the proposed rule, the department received comments that the public used a portion of the stream for canoeing and swimming. As a result, in adopting the final rule in July, 1991, the stream was designated Class A in addition to the B classifications. The City of Mt. Pleasant, which would have been required to construct additional wastewater treatment facilities as a result of this reclassification, objected, and filed a petition for rulemaking to remove the Class A designation, among other things. In order to obtain additional public comment specific to the issue of the Class A designation, the department issued a new notice of intended action, in March, 1992.

Additional comments were received, indicating that there was significant recreational use of a portion of the stream for canoeing and swimming. The City and others commented that the cost of constructing additional facilities to disinfect their wastewater would be extraordinary, the physical characteristics of the stream during low flows did not support recreational uses, the stream was no different from hundreds of rural Iowa streams in which people might wade or swim and this would be the first rural stream so classified, and it had not been designated as Class A in Iowa's initial water quality designations.

Among the facts noted by staff and the Commission in considering the issue were:

- recreational uses supported during low flow conditions would be restricted because of the natural physical conditions (lack of water depth);
- most of the primary contact uses were by friends and families of the adjacent property owners; there were no specific public access facilities;
- to date most Class A designations had been for larger bodies of water where accessibility exists for extensive primary contact recreation to occur, e.g. state lakes,

reservoirs, larger interior streams and the Missouri and Mississippi Rivers; three smaller, urban streams had been designated;

- the department's surface water designation efforts at that time were concentrating on Class B designations, and no systematic efforts were being made to identify potential Class A waters.

Department staff recommended to the Commission that the Class A designation remain in place, because the stream was in fact used for primary contact recreational purposes. On May 18, 1992, the Commission adopted a final rule removing the Class A designation because 1) the stream did not have the physical characteristics during extended low flow periods to support Class A uses; 2) no public access was provided to the stream in the form of parks, boat ramps, etc.; and 3) the department had not developed criteria to evaluate the Class A type of uses for smaller Iowa streams. (June 10, 1992 IAB, ARC #3089A)

RULINGS

At the outset, it should be noted that one of the options the department has is to decline to issue a ruling, pursuant to 561 IAC 6.5(9), in that a ruling as requested would necessarily determine the legal rights, duties or responsibilities of other persons who have not joined in the Petition and whose position on the questions presented may fairly be presumed to be adverse to that of the Petitioners. Thus, if the department concluded that the rules precluded issuance of the permits, as the Petitioners suggest, the appropriate procedure would be to deny the permits. The applicant could then appeal that decision, and if that occurred, the Petitioners in this request could intervene in that action.

Other reasons for declining to issue declaratory rulings include:

6.5(4) The questions presented by the petition are also presented in a current ... other agency or judicial proceeding that may definitively resolve them.

6.5(5) The questions presented by the petition would more properly be resolved in a different type of proceeding....

6.5(6) The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a ruling.

As noted above, the department does not feel that sufficient facts are presented in the petition to fully answer the questions asked, and a more extensive record has been developed in the permit proceeding, which presumably the petitioners could challenge in court. Therefore, the above additional grounds also could be asserted as a basis for declining to rule. However, the department has attempted to overcome these grounds by drawing the permit record into this petition, because we feel that it is important to enunciate the department's position on these questions, rather than decline to rule. Because the department's conclusions support the issuance of the permits, and the Petitioners can appeal from these decisions, we issue the following rulings.

a. Does the antidegradation policy of the State found in 567 IAC 61.2(2) require a quality testing of the waters affected by the discharge to determine if water quality will be maintained?

The Petitioners assert that it is impossible to apply the policy in the absence of findings of the quality of water to which a proposed discharge will flow. The department disagrees, and rules that it is not necessary to test the specific chemical quality of a receiving stream prior to allowing a discharge to it.

The primary criteria for classifying water bodies under the rules are the physical characteristics, including normal and low flows, and the habitat and other physical characteristics that support particular aquatic communities or uses. Only when waters are of an exceptional nature, that may qualify for classification as High Quality or High Quality Resource waters, might more specific determination of chemical quality become important. The rules and mechanics relating to water quality determinations, are based primarily on general data regarding Iowa's surface waters, along with physical characteristics, which support potential uses as well as actual uses. Intermittent streams and lake type water bodies that dry up at times would not be eligible for classifications to which chemical quality may be relevant.

In any event, under the rules and the department's long-standing implementation of the water quality standards, a well-maintained and operated controlled discharge lagoon treating domestic sewage will not degrade the uses of either general or designated use water bodies.

b. Does the antidegradation policy of the State found in 567 IAC 61.2(2) require the denial of the proposed permit because it will not maintain existing uses of waterways affected by the discharge, namely the recreational uses of this water body?

The Petitioners assert that the proposed discharge will prevent the recreational use of the water body referred to as Thiry Lake, and uses of other downstream waterways, and therefore the antidegradation policy prohibits issuance of the permit. The department disagrees with the assumptions and conclusions. The uses protected under the existing designations in the rules, general use down to Miller Creek, B(LR) in Miller Creek, and B(WW) in the Cedar River, will be protected. The discharge will have to meet secondary treatment standards, and is not expected to contain significant amounts of other pollutants. Discharge will occur only during two periods per year, and will likely be less polluted than general nonpoint source runoff which also will enter the water bodies.

c. Does the antidegradation policy of the State found in 567 IAC 61.2(2) require the department to assess the quality and usage of ALL waterways affected by the discharge before issuing a permit?

Yes, in the sense explained in a., but the department has been aware of the existence of all downstream water bodies throughout the permit process, and has assessed them as required by the rules.

d. Is this water body a Class A waterway requiring the discharge of effluent to meet the water quality standards found in 567 IAC 61.3(3)"a"(1) and (2)?

The Petitioners assert that although the water body has not been designated by our rules as Class "A", it meets the definition of this classification because there is in fact primary contact recreation there. Designation of water bodies is a rulemaking process, and as noted, this water body has not been designated by rule. Based on the Big Creek precedent, it is doubtful that it could be designated as Class "A". While we do not dispute that individuals can and may swim or wade in this water body at times, this could be said for most water bodies in Iowa. In any event, for the reasons stated in a., the proposed discharge will meet the water quality standards, even if this were classified "A".

e. Is this water body and downstream waterways beyond the "mixing zone" requiring the discharge to meet the standards found in subrule 61.3(3), Tables 1 [Chemical Constituents] and 3 [Ammonia Nitrogen], and, at a minimum, should ammonia be tested for?

The waterways are beyond the mixing zone, but the cited numeric standards apply only to designated waters, which in this case would be Miller Creek and the Cedar River. Given the distance to the designated streams, and in any event based on the characteristics of discharges from domestic, controlled discharge lagoons, there is no reason to be concerned with the chemical or ammonia nitrogen loads on those water bodies. Due to public comment, a requirement to monitor for ammonia nitrogen in the discharge was added. This is not required by rule, but will provide additional information and hopefully alleviate some public concern.

f. Is the requirement that the discharge be free from "aesthetically objectionable" material in 567 IAC 61.3(2)"c" applicable to the discharge from the lagoon?

Yes.

g. Does 567 IAC 61.3(2)"c" require a finding that the discharge will not produce "aesthetically objectionable" materials related to all affected bodies of water prior to the issuance of an NPDES permit?

Yes. The department's implementation of applicable permit limits for properly operated controlled discharge lagoons provides that this standard will be met.

h. In the absence of any of the above requirements, does the antidegradation policy of the State of Iowa require that the proposed NPDES permit be denied?

No. The antidegradation policy does not prohibit all new wastewater discharges. The discharge of domestic sewage treated in a controlled discharge lagoon system, twice per year during higher than normal flows will be of as high a quality as background water in general use water bodies.

Pursuant to 561 IAC 6.4(17A) this ruling is final unless appealed to the Environmental Protection Commission within ten days of your receipt, or reviewed by the Commission on its own motion. On appeal or review, the commission may:

1. Approve the director's ruling, in which case the ruling becomes the final declaratory ruling of the department, or
2. Reverse or modify the declaratory ruling, in which case the modified ruling becomes the final declaratory ruling of the department, or
3. Request additional information from the petitioner, or
4. Decline to issue a ruling, as specified in rule 6.5(17A).

Larry J. Wilson, Director
Iowa Department of Natural Resources

Dated this ____ day
of April, 1996

(A copy of the Thiry's petition is on file in the department's Records Center)

Mr. Murphy stated that this matter involves the issuance of a NPDES permit for a new wastewater treatment lagoon for Washburn, Iowa. He related that the discharge that has been authorized would flow through an intermittent drainage way which includes Thiry Lake, some wetland type areas, Miller Creek and into the Cedar River. He noted that the petition asks various questions about the applicability of water quality standards and they feel that since they use the water body for swimming and other recreational uses, it should be classified as a Class A stream. He related that the petitioner asserts that this discharge would be incompatible with that classification. Mr. Murphy reviewed the supporting documents sent with the agenda item. He noted that staff feel the rules support the process used to issue the permit. He related that discharge from a controlled discharge lagoon that is constructed and designed in accordance with the department standards should not adversely affect the water body. Mr. Murphy noted that a representative for the Thiry's is present to speak, as are representatives from Black Hawk County.

Appointment - Aaron Hawbaker

Aaron Hawbaker, Attorney representing Ken and Regina Hawbaker, circulated photos of Thiry Lake showing the discharge route from the wastewater treatment lagoon. He read excerpts from 567.61(2) regarding antidegradation laws and noted that the response from DNR is that they have water quality standards which meet that objective. He stressed that the problem is when specific information is presented to the department or Commission, there should be some flexibility. Mr. Hawbaker added that the Commission should have open ears when citizenry take steps to show why the general regulations do not fit the specific scenario. He noted that this is the only instance in the state where the body of water receiving the discharge is the same size of the lagoon that is discharging. He distributed copies of results from water testing they had

recently completed. He pointed out that the results show no fecal coliform in the water and the chemical analysis shows the nitrate levels are exceedingly low. Mr. Hawbaker stated that the wastewater discharge will contribute to the chemical pollution of the water. He noted that alternatives exist and sometimes the general regulations of the state are not applicable.

Verlon Britt asked about available alternatives to the proposed discharge route.

Mr. Hawbaker stated that one alternative would be not to build the lagoon at all and pipe it up to Waterloo. Another would be to pipe it along the ditch that runs straight east and directly to the Cedar River. He related that another possibility would be to construct a wetland as an additional filter.

Appointment - Michael Rottinghaus

Michael Rottinghaus, neighbor to the Thiry's, stated that the landowners farming near the area use filter strips as a means to protect the water. He noted that he is not here to stop the county from providing wastewater treatment for the City of Washburn, but is trying instead to protect the property.

Appointment - Peter Burk

Peter Burk, Assistant Black Hawk County Attorney, introduced Sonia Johandsen-County Supervisor; Richard King-Black Hawk County Engineer; Steve Finegan-Black Hawk County Conservation Board; and Bill Claussen-private engineer hired by the county on this matter. Mr. Burk stated that he supports the position of the declaratory ruling but there is a lot of emotion involved and it is necessary to rely on scientific facts.

Appointment - Bill Claussen

Bill Claussen, Claussen Engineering displayed an aerial photo of the general area of Washburn and described the layout of the drainage basin. He noted that Thiry Lake has about four feet of depth and does dry out occasionally. He stated that the county considered three different alternatives as follows: 1) Spoke with Waterloo officials in regard to connecting to their system this option involved less capital but the long term cost is much more due to their rate structure; 2) Looked at aerated systems with continuous discharge but did not want to go with that option; and 3) Go with a controlled discharge system which costs less, and that is what the county opted to do. Mr. Claussen said three different sites were looked at but the chosen area has natural clays, is more cost-effective, and the soils are not as permeable. He related that the county is considering two other alternatives, one being to discharge to the Cedar River and the other is to construct a wetland in the area prior to Thiry's Lake. He noted that two professors at ISU have been contacted to evaluate potential sites and the possibility of constructing a wetland. He covered costs for each alternative and noted that it is being partially funded with a grant.

Brief discussion followed regarding costs and Waterloo water rates.

Terrance Townsend asked what the anticipated discharge and storage period would be.

Mr. Claussen replied that the system is designed for 180 days of storage between discharges and if done twice a year could discharge 20 million gallons over a period of 18 days per discharge. He noted that actual discharge would probably be more like 12 million gallons over a period of three weeks. He pointed out that they cannot discharge between April 30 and October 31.

Appointment - Sonia Johannsen

Sonia Johannsen, Black Hawk County Supervisor, presented background on the town of Washburn. She noted that during the 1993 flood period Washburn had some real difficulty and the Board of Supervisors then worked with state and federal agencies to receive some grant money. She related that a water system was recently installed which is costing each household at least \$30 per month. She stated that hooking up to Waterloo is pretty much out of the question because they do not want to add more costs to the moderate/low income people. She added that the county is in the process of developing information and searching for money to consider the wetlands alternative.

Appointment - Steve Finegan

Steve Finegan, Black Hawk County Conservation Board Director, stated that he has recently been involved with the project in relation to looking at enhancing existing wetland areas. He pointed out the two existing wetland areas on the map and related that the idea would be to use both of these wetlands. He related that they are in the process of getting those properties appraised. Mr. Finegan noted that the property owners near the wetland area have no objections to the project.

Aaron Hawbaker reiterated that he is asking the Commission to require the county to adopt an alternative and to do what is consistent with the environmental laws of the state. He noted that the NPDES permit requires monitoring but no testing. He added that EPA must certify this project and they have not guaranteed certification yet.

Discussion followed regarding the nutrients coming from the watershed versus those from the waste water facility.

Mr. Murphy stated that there is some disagreement with the scientific facts. He related that the assumption is that the discharge coming from the lagoon is bad and will do something horrible to the water. He added that the technical judgment is that it is similar to what is already there and it will not cause adverse impacts. Mr. Murphy reviewed the options the Commission may take. One option is to decline the ruling, which would leave the Thiry's where they stand today and let them work it out with the county if there are to be any changes.

Discussion took place regarding the effect of the declaratory ruling if the Commission agrees with it. Also discussed was the antidegradation policy allowing discretion for flexibility in certain cases.

Gary Priebe indicated that he has a problem with the whole scenario and if wetlands will alleviate the problem, that is what should be done.

Discussion followed in regard to the Des Moines treatment plant discharging to Red Rock as comparison with the Washburn project. Further discussion centered on the quality of the water after disinfection and discharge to the stream, points of dilution, and testing of the water.

Darrell McAllister cautioned against doing something that would be precedent setting and could possibly make it difficult for any new dischargers.

Mr. Hawbaker stated that there is a set of facts before the Commission and they should not worry about precedent setting. He reminded the Commission that they have the flexibility to adopt specific situations.

Peter Burk expressed concern with the county possibly losing their grant funds. He stressed that the county and DNR has fully complied with the law on this issue. He stated that it is within the Commission's power to make a determination of the law.

Mr. Hawbaker stated that the fact there is grant money available should not dictate the Commission's decision on what to do.

Director Wilson stressed that he gave the Declaratory Ruling a considerable amount of time and thought before signing it.

William Ehm stated that he agrees that the Commission has the right and obligation to make a decision but to say there is no long-term effect is naive. He noted that he does not want to sit on a board that rules on every NPDES permit that comes through. He related that he would be disappointed if the citizenry of Black Hawk County and the County itself end up in court, and he would strongly encourage their looking at the ISU study on wetlands.

<i>Motion was made by William Ehm to approve the Declaratory Ruling as presented by the staff. Seconded by Charlotte Mohr.</i>
--

Discussion took place regarding the possibility of the Thirys and the county continuing to work together toward a resolution to the issue.

Gary Priebe stated that he does not want to look at each NPDES permit either, but he thinks there are options for this particular case because it is different than 400 others. He suggested tabling it and see what the county does.

Sonia Johannsen stated that the county has a deadline from EDA to begin construction in two days or lose the grant funds. She noted that everything is being held up by this process. She added that the wetlands project is the most appropriate solution but until the study is completed they are not sure they can do that.

Mr. Hawbaker reiterated that the Commission's decision should not be based on the grant funds, and the EPA has not yet certified the project.

Mr. Burk proposed that if the Commission sustains the department ruling it would allow them to get the project started, and the department could continually monitor the county on the wetland matter. He related that if the wetland matter is a viable option the county could come back later and request a change in the NPDES permit.

Discussion followed regarding the wetland alternative viability and whether or not it is necessary to include it in the motion.

Gary Priebe moved to amend the motion to include that the county make a viable alternative to make the wetland issue work. Seconded by Verlon Britt.

Chairperson King requested a roll call vote. "Aye" vote was cast by Commissioners Britt, Mohr, Priebe, and King. "Nay" vote was cast by Commissioners Townsend and Ehm. Motion failed on a vote of 4-Aye to 2-Nay.

MOTION FAILED

Chairperson King requested a vote on the original motion by Commissioner Ehm to approve the Declaratory Ruling as presented by staff. "Aye" vote was cast by Commissioners Ehm and King. "Nay" vote was cast by Commissioners Britt, Mohr, Priebe, and Townsend. Motion failed on a vote of 4-Aye to 2-Nay.

MOTION FAILED

Following a brief break, Darrell McAllister stated that a possible compromise would be for the department to modify the county's NPDES permit to include a requirement that the county look at alternatives for discharges, including a wetland discharge. He noted that the modified permit would therefore make it a requirement.

Motion was made by Gary Priebe to approve that the department amend the NPDES permit to include a requirement that the county look at alternatives for discharges, including a wetland discharge. Seconded by Charlotte Mohr.

Mr. Hawbaker asked that the Commission rule on the Thiry's petition for declaratory ruling today.

Vote on Commissioner Priebe's motion carried unanimously.

APPROVED NPDES PERMIT MODIFICATION

Mr. Murphy clarified that the declaratory ruling was not acted on and he urged the Commission to adopt the declaratory ruling of the department with the modification of the permit.

Motion was made by William Ehm to approve the Declaratory Ruling presented by staff with the amendment of the NPDES permit modification. Seconded by Verlon Britt. Motion carried unanimously.

DECLARATORY RULING OF DEPARTMENT UPHELD AS AMENDED

REFERRALS TO THE ATTORNEY GENERAL (CONTINUED)

Weiland and Sons Lumber Co.

Mr. Murphy reported that this party has paid the penalty therefore staff will withdraw the referral.

REFERRAL WITHDRAWN

Randy Ballard

Mr. Murphy briefed the Commission on the history of this case involving illegal deposited materials on a floodplain in Fayette County.

Motion was made by Verlon Britt for referral to the Attorney General's Office. Seconded by Terrance Townsend. Motion carried unanimously.

REFERRED

LEGISLATION UPDATE

Don Paulin gave an update on the following legislative bills.

Passed

Appropriations bill - passed as requested or a little above request by the department. Mr. Paulin expanded on details of the bill.

Asbestos bill dealing with education

LLRAWC

Livestock bill dealing with chronic violators

Waste Tire bill - provides \$15 million over a six year period

Did Not Pass

Environmental Audit bill

Winnebago Co. solid waste bill

Pollution controls & investigations on motor vehicles bill

Property Rights bills

He discussed some bills that are still awaiting approval.

INFORMATIONAL ONLY

GENERAL DISCUSSION

Gary Priebe commented that the complaint form distributed by Liz Gilbert noted that the complainant was anonymous and he has a problem with that.

Mr. Murphy stated that the department takes anonymous complaints but they sometimes have low priority unless they have some real substance.

NEXT MEETING DATES

June 17, 1996

July 15, 1996

August 19, 1996

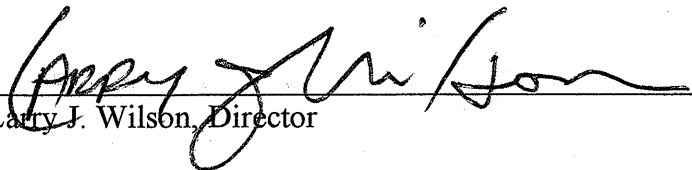
The Commission decided to hold their next meeting in Davenport, beginning at 10:00 a.m., on Monday, June 17, 1996. The Commission will tour some local facilities during the morning of Tuesday, June 18, 1996.

ADJOURNMENT

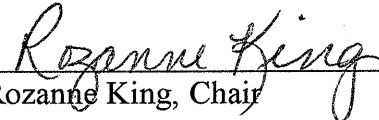
With no further business to come before the Environmental Protection Commission, Chairperson King adjourned the meeting at 4:50 p.m., Monday, May 20, 1996.

May 1996

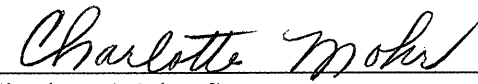
Environmental Protection Commission Minutes



Larry J. Wilson, Director



Rozanne King, Chair



Charlotte Mohr, Secretary

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